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SUPREME COURT OF THE UNITED STATES.

No. ~~227~~ 138-

THE BRIG VOLANT, HER TACKLE AND CARGO, APPELLANT,

vs.

THE UNITED STATES.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF LOUISIANA.

GOVERNMENT PRINTING OFFICE.

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1 United States district court, eastern district of Louisiana.

THE UNITED STATES OF AMERICA
against
THE BRIG VOLANTE, HER TACKLE, &C., AND CARGO. } In prize.

To the Honorable Edward H. Durell, judge of the district court of the United States for the eastern district of Louisiana:

The libel of information in prize filed herein by Rufus Waples, attorney of the United States for the eastern district of Louisiana, on behalf of said libellants and of the naval captors in interest, respectfully represents to this honorable court:

First. That the brig or vessel called the Volante, with the goods, wares, and merchandise laden therein, was captured as lawful prize on or about the fifth day of November, 1863, and brought to New Orleans, within this jurisdiction, by the United States steamer Virginia, Charles H. Brown, United States navy, commanding.

Second. That the brig or vessel called the Volante, with the goods, wares, and merchandise laden therein, were at the time of such capture, and are now, rightfully subject to such capture, and were and are lawful prize, and as such should be condemned and forfeited to the use of the libellants.

Third. That the said brig or vessel called the Volante, with the goods, wares, and merchandise laden therein, have been brought to the port of New Orleans, and are now at said port and within the jurisdiction of this honorable court.

Fourth. That by reason of the premises the said brig or vessel called the Volante, her tackle, apparel, and furniture, with the goods, wares, and merchandise laden therein, became and are liable to condemnation and forfeiture as lawful prize, and should be condemned and forfeited as lawful prize to the libellants.

That all and singular the premises are and were true and within the jurisdiction of this honorable court. In attestation whereof, the said attorney exhibits the said vessel's papers and the documents, &c., found on board, together with the testimony of the witnesses, duly taken in preparatorio by the prize commissioners appointed by this honorable court, which are or will be duly filed in the registry of this court.

Wherefore the said attorney of the United States, on behalf of the said United States, prays the usual process and monition of this honorable court against the said brig or vessel called the Volante, and her tackle, apparel, and furniture, and the goods, wares, and merchandise laden therein, in this behalf to be made, and that all persons interested in the said vessel and her cargo may be cited to answer in the premises, and that all due proceedings being had therein, this honorable court may be pleased to decree for the condemnation and forfeiture aforesaid, and that the said brig Volante, her tackle, apparel, and furniture, with the goods, wares, and merchandise laden therein, may be condemned as lawful prize to the use of the said United States.

Dated New Orleans, November 21st, 1863.

(Sig.) RUFUS WAPLES,
United States District Attorney.

2 *Order.*

Let admiralty process issue as prayed for.
November 24th, 1864.

K. LOEW, *D'y Clerk.*

Filed November 24th, 1863.

REC. 227—1

3 The President of the United States of America to the marshal of the eastern district of Louisiana, or to his lawful deputy, greeting:

You are hereby commanded forthwith to seize, and into your possession take, the brig Volant, her tackle, &c., and cargo, now libelled by the United States for the causes set forth in the libel pending in the district court of the United States for the eastern district of Louisiana; that you do cite and admonish the owner or owners and all and every other person or persons having or pretending to have any right, title, or interest in or to the same, to be and appear before a district court of the United States for the district aforesaid, to be holden at the city of New Orleans, on or before the third Monday from the service hereof, to show cause, if any they have or can, why the said brig Volant, her tackle, &c., and cargo, should not be condemned as prize forfeited to the United States, sold, and the proceeds thereof distributed according to law and agreeably to the prayer of the libellant; and how you have executed this warrant that you make return according to law.

Witness the Honorable Edward H. Durell, judge of the said court, at New Orleans, this 24th day of November, 1863, and the 88th year of the independence of the United States.

[SEAL.] K. LOEW, *D'y Clerk.*

Issued November 24th, 1863.

4 *Marshal's return.*

Received 24th November, 1863. The usual legal formalities having been perfected under process issued by the U. S. prize commissioners, I proceeded to perform the additional legal requisites by serving copies of the admiralty warrant and libel on John Thompson on board, and publishing monition in the N. O. Times, a daily newspaper printed in New Orleans, on the 28th Nov'r, 5, 12 Dec'r, 1863.

Returnable 14th December, 1863.

J. Q. A. HOIT, *Dep. U. S. Marshal.*

In the United States district court, eastern district of Louisiana.

UNITED STATES
vs.
BRIG VOLANTE, PRIZE, HER TACKLE, &C., AND CARGO. } No. 7,776.

In obedience to an admiralty warrant to me directed in the above-entitled suit, I have seized and taken into my possession the brig Volante, her tackle, &c., and cargo, now libelled by the United States, for the causes set forth in the libel now pending in the district court of the United States. And I do hereby cite and admonish the owner or owners thereof, and all and every person or persons having or pretending to have any right, title, or interest in or to the same, to be and appear at a district court of the United States for the district aforesaid, to be holden at the city of New Orleans, on or before the third Monday from the date hereof, to show cause, if any they have or can, why the said brig Volante, her tackle, &c., and cargo, should not be condemned as prize forfeited to the United States, and be sold agreeably to the prayer of libellant, and the proceeds thereof distributed according to law.

United States marshal's office, New Orleans, twenty-fifth day of November, 1863.

JAMES GRAHAM, *United States Marshal.*

5 In the matter of the brig Volant and cargo, a prize.

PRIZE COMMISSIONERS' OFFICE,
New Orleans, November 20th, 1863.

To the hon. the judge of the district court of the United States for the eastern district of Louisiana:

The undersigned, prize commissioners of the honorable court, respectfully report that on the 20th day of November, A. D. 1863, they received notice from A. F. West, of the U. S. st'r Virginia, and prize master of the brig Volant, that the said A. F. West brought with him into this city a certain vessel, called the Volant, and cargo, as a prize of the U. S. st'r Virginia; that said Volant had been captured on Thursday, the 5th day of November, 1863, on or about 12 o'clock m., for violating the rules governing the blockade at present instituted by the United States government, and the said A. F. West and a prize crew had been appointed by the said Charles H. Brown to bring said prize into this port and report her as required by the law and the usages in such cases observed.

That said prize master did seasonably deliver to us all such papers, passes, documents, &c., as were found on board of the captured brig and having a reference to and a connection with the captured property,
6 and which were in the possession, custody, or power of the captors, which documents were by one of us prize commissioners regularly marked and numbered from A to N, inclusive, being fourteen in number, *in number*, and the said prize master made a deposition identifying said documents and complying in all respects with the law, which deposition and the said documents are herewith transmitted to your honorable court. That on the same day the said prize master produced to me three witnesses, persons captured with the said brig, to wit, 1st, Philip De Gruchy, captain of said vessel; 2d, Daniel Lloyd, mate of said vessel: 3d, Wm. M Lay, cook of said vessel. That we examined said three persons in preparatorio upon the standing interrogatories which have been adopted by the honorable court, as the same are found in Upton's Work on Prize Courts, (page 479, 3d edition;) that said witnesses were examined separately on oath, and
7 not in presence of each other, and unattended by counsel, after each had taken the necessary and prescribed oath to make true answer, &c., which answers were written down as required by law, each one separately to each interrogatory, and when entirely answered the said answers were signed by each witness respectively, as the same are now transmitted to your honorable court. That we proceeded aboard of said vessel, the Volant, and examined her condition, and that it was impossible to state whether bulk had been broken or not; that the cargo consists of brandy, boots, blankets, blue cloth, hoze, &c., &c., and that it is impossible to ascertain exactly the nature or quality of the cargo without an unloading and undelivery of the same, which proceeding we now recommend to the honorable court; that we secured the hatches of said brig Volant with a view to the protection of the cargo until it is undelivered. That we took possession of the said brig and cargo on the 20th day of November, 1863, and turned over the same to Jas. Graham, U. S. marshal of this court, who is to safely keep the same until further order of the court. All of which, including the deposition of said West, with the documents by him identified and the answers to the interrogatories taken as above, are now securely sealed, and are hereby submitted to this honorable court and deposited in its custody.

MICHAEL HAHN,
ALFRED SHAW, (Special,)
U. S. Prize Commissioners.

8 District court of the United States for the eastern district of Louisiana.

In the matter of the brig Volant and her cargo, a prize.

A. F. West, prize master of the brig Volant, detached from the U. S. st'r Virginia, of which Chas. H. Brown is commander, being duly sworn, deposes and says that the brig Volant was captured on the 5th of November, 1863, off the coast of Texas, for violating the rules governing the blockade at present instituted by the United States government. And said A. F. West deposes and says that certain papers, marked from A to N, inclusive, and further identified by the initial letters put on them by Special Prize Commissioner Alfred Shaw, are the same that were captured with the brig Volant, and that the deponent has delivered to the prize commissioner each and every document, paper, and writing whatsoever received by him relating to the aforesaid captured property in the same state and condition in which he received them, without "fraud, subornation, or embezzlement," and without any addition or alterations whatsoever, and he does not know nor does he believe that any of the documents are missing or wanting.

And deponent further says that if at any time hereafter, and before the final condemnation or acquital of said captured property, any further or other paper relating thereto shall be found or discovered to his knowledge, they shall be delivered up or information thereof given to the prize commissioners of this district or to the honorable court.

A. F. WEST.

Sworn to and signed before me, special prize commissioner, this the 20 day of November, 1863, New Orleans, La.

ALFRED SHAW, *Special Prize Commissioner.*

9 District court of the United States for the eastern district of Louisiana.

In the matter of the Brig Volant and cargo, a prize.

Deposition of Philip De Gruchy, captain, a witness produced, sworn, and examined in preparatorio on the twentieth day of November, in the year eighteen hundred and sixty-three at the prize commissioners' office, on the standing interrogatories established by the district court of the United States for the eastern district of Louisiana, the said witness having been produced for the purpose of such examination by Rufus Waples, esq., U. S. district attorney, in behalf of the captors of a certain vessel called the Volant.

To the first interrogatory the witness answers: 1st. I was born on the island of Jersey, in the English Channel. I live there, and am a subject of Great Britain. I am a married man, and my wife and family reside in Jersey.

2nd. I was present at the capture of my vessel, the Volant, and her cargo.

10 3rd. The capture was made while we were lying at anchor in the harbor of Matamoras, amongst all the other ships then at that port. And the Volant was brought to the port of New Orleans. The captured vessel had no commission authorizing her to make prizes. There was no reason assigned for the capture of my vessel, it is the cargo I had on board, that is all I know of it.

4th. The Volant sailed under English colors; we had no other colors on board.

5th. There was no resistance made at the time of the capture; there were no guns fired. The capture was made by the U. S. st'r Virginia. The harbor was full of ships at the time my vessel was taken. The Volant was a mer-

chantman, and had no commission to act as a privateer or letter of marque or reprisal. The Volant belonging to Matthew Gallichau & Co., in the island of Jersey. The captured vessel is a ship-of-war.

6th. I do not know if the Virginia had any commission to make prizes. The Volant has not been condemned as yet.

11 7th. The name of the vessel taken was the Volant, Captain Philip De Gruchy. I was appointed to the command by the owners in Jersey. I have known the vessel for two years. She is only three years old. I took possession of her in Jersey

8th. The Volant is of 226 tons burthen, by her register. There were ten men all told on board the vessel, and all belonged to her, and they are all Englishmen, I believe. The crew all came on board at London; I hired them there.

9th. I belonged to the Volant, and in the capacity of captain. I had no interest in the vessel or cargo, nor did any of the officers or crew.

10th. I have known the vessel about two years, and I first saw her at Jersey. We carried no guns whatever. There were ten men on board all told. The Volant was built at Bathurst, Nova Scotia; her name is the Volant and has always been so called to my knowledge.

11th. The Volant was bound for Matamoras direct, and was in the harbor at anchor when captured. Had not yet discharged, nor had we had

12 any communion whatever with the shore. The vessel left London for Matamoras, and was to return to Queenstown or Falmouth for orders. We had a general cargo when we left London, and we had the same cargo on board when taken. The cargo was put on board in August of the present year. We had on board no goods contraband of war. I do not know what is called contraband here. According to my charter I was to take on board no powder, balls, shot or shell, saltpetre, or anything of that kind, and I had on board none such.

12th. We had on board no passports or sea-briefs. We came direct from London to Matamoras. The vessel carried a general cargo, consisting of brandy and baled goods, and cases, which I supposed contained shoes. London was our last clearing port.

13th. The vessel had a general cargo when she left London, and had the same on board when she was taken.

14th. The Volant was owned by Matthew Gallichau & Co., of Jersey, and the cargo was consigned to Wolf & Hildeshein. I do not know who owned it.

13 15th. The vessel made one voyage from where she was built to Liverpool, and was then bought by the present owners, to the best of my knowledge. I have never seen the bill of sale.

16th. The cargo was put on board at London, in August, 1863. The vessel was chartered there by Bennett & Wake, through my brokers, Seymour, Peacock & Co., for the voyage to Matamoras. The consignees I have named. I know nothing more about them, never having seen them. I believe that if the vessel and cargo are restored they will belong to the persons now asserted to be the owners, and to none others.

17th. There was but one bill of lading signed for the goods seized on board the vessel; it is entirely true and fair, and was taken from me by the prize master.

18th. The bill of lading was signed and consigned with the entire cargo to Wolf & Hildeshein, Matamoras.

19th. We were at anchor in the port or harbor of Matamoras at the time we were taken. It is a Mexican port.

14 20th. There were no papers destroyed, concealed, or thrown overboard. All the papers which were on board when we left London

are now in the possession of the prize master, or rather they have been in his charge.

21st. I had no notice that such port was in a state of blockade by the United States, nor do I believe it is.

22nd. Said port was not under an order of blockade by the United States.

23rd. The register of the vessel was not examined by any naval officer of the U. S. government until the boarding officer of the Virginia examined my papers, and he said nothing after having examined them.

24th. The Volant never attempted to enter or escape from any blockaded port.

25th. The captured vessel has never before been seized or condemned as a prize.

26th. I have sustained a loss, both in the detention of the vessel and in the damage done to it. I had a jibboom carried away.

15 27th. I do not know whether either vessel or cargo are insured.

28th. In case we had discharged our cargo at Matamoras it would have been immediately in the charge of the consignees, Messrs. Wolf & Hildesheim.

29th. I know nothing of the growth or manufacture of the cargo.

30th. The cargo was put on board at London, in the West India dock, by means of lighters.

31st. I do not know whether there are in any country or on any vessel any other papers concerning the vessel and cargo, other than those I had in my possession.

32nd. There were none carried away in any manner whatever but those carried away by the Virginia.

33rd. Bulk was not broken during the voyage on which we were taken.

34th There were no passengers on board, there were no citizens of
16 the United States on board; there was no person secreted on board; there were no persons on board belonging to any State or Territory now in a state of war with the United States.

35th. All the papers on board are true and fair to the best of my knowledge, and they were all delivered by me to the steamer Virginia.

36th. The vessel was then in the harbor or port of Matamoras when taken, our course had always been directed to Matamoras when wind and weather permitted.

37th. The vessel has never been sold or transferred to my knowledge. She was bought by the present owners when new.

38th. There were no guns on board, nor arms or ammunition of any kind, nor did I have anything contraband of war, to my knowledge, on board.

39th. The vessel was bound on a voyage from London to Matamoras, and was at the latter port when taken, on a legitimate trading voyage.

17 40th. The Volant never sailed under the convoy of any ship or ships of war.

41st. The Volant never attempted to run the blockade of any port.

42nd. The Volant never had a commission to make or take prizes.

43rd. The Volant never acted in company or concert with any armed vessel or vessels in any manner whatever.

PHILIP DE GRUCHY.

Sworn to and subscribed before me this 20th day of November, 1863.

ALFRED SHAW, *Special Prize Commissioner.*

18 District court of the United States for the eastern district of Louisiana.

In the matter of the brig Volant and cargo, a prize.

Deposition of Daniel Lloyd, mate of the brig Volant, a witness produced, sworn, and examined in preparatorio on the 20th day of November, in the year 1863, at the office of Alfred Shaw, special prize commissioner, on the standing interrogatories established by the district court of the United States for the eastern district of Louisiana, the said witness having been produced for the purpose of such examination by Rufus Waples, esq., U. S. district attorney, in behalf of the captors of a certain vessel called the Volant.

To the first interrogatory the witness answers: 1st I was born in England. I reside in Wales. Lived there some 23 years. I am a subject of Great Britain, to which power I owe allegiance. I am not a citizen of the United States. I am not married.

2nd. I was present at the capture of the Volant and cargo.

19 3rd. The seizure was made near the harbor of Matamoras, and we were brought to New Orleans. Our vessel had no commission or letters to make prizes. I don't know for what reason our vessel was taken.

4th. She sailed under English colors. She had no other colors on board.

5th. We made no resistance when we were taken. No guns were fired. The Volant was taken by the U. S. steamer Virginia. There were other gunboats of the United States around and in sight when we were taken. Our vessel was a merchantman. She acted under no commission or letters to make prizes. The capturing vessel is a U. S. man-of-war.

6th. The capturing vessel I believe had authority to take us; otherwise, she would not have taken us. Our vessel was never seized before, that I know of.

7th. The captured vessel's name is the Volant. The captain's name is De Gruchy. Don't know who appointed him captain. I have known the vessel and captain five months; he took possession of the ship in Jersey. I don't know who delivered him the ship. Jersey I believe is the fixed

20 place of the captain's residence; he is married, and has one child. Don't know how long he has resided in Jersey. He is an Englishman, a Jerseyman.

8th. The tonnage of the Volant is 226. 10 men, captain and myself included, composed the crew of the vessel when she left London and when she was taken. The crew consisted of English, Scotch, and a Jerseyman, the carpenter. Three of the crew came aboard at Gravesend; the others came on at London. They were shipped by the captain through a shipping master.

9th. I belonged to the crew at the time of the capture as mate. I had no interest in either vessel or cargo.

10th. I knew her five months. Saw her first at Liverpool. She carried no guns. Ten men were on board when she started on her voyage, and had the same number when taken. The Volant was built at St. John's New Brunswick. Her name was the Volant; how long she bore that name I don't know. Never knew her by any other.

21 11th. She was bound for Matamoras on the voyage on which she was seized. The voyage began at London, and was to have ended at Matamoras. She had a cargo of dry-goods when she left London, and had the same cargo when captured. The cargo was put aboard in August, 1863, at London. Don't know that she had any goods contraband of war on board.

12th. I know nothing about the passports or sea-briefs of the Volant. The Volant sailed from London to Matamoras on the voyage she was taken; the voyage was to have ended at Matamoras. Previous to the voyage in which she was taken she had made a trip to Porto Rico from Liverpool and

back. She had some bales and boxes, and cases containing blankets, leather, and brandy at the time of her capture. This cargo was to have been delivered at Matamoras. She sailed from London on the voyage she was taken.

13th. The Volant had the cargo already described by me on board when she left London and when taken. The cargo was put on board in August, 1863. I cannot describe the cargo more particularly than I have already done.

22 14th. I don't know who were the owners of the vessel and cargo.

15th. I know nothing about any bill of sale of the vessel.

16th. The cargo found on board at the time of the seizure was put there in London, in August, 1863. Don't know who were the laders or consignees thereof. As I do not know who are the owners of the vessel or cargo, I cannot tell to whom the same would belong should the seizure be released.

17th. I know nothing about bills of lading.

18th. Knows nothing about the question.

19th. We were taken some five miles off the bar of the Rio Grande, near Matamoras. I cannot tell the degree of longitude or latitude The seizure was made on a Thursday, at 3 p. m.; I think about the the 7th or 8th of November last. Knows nothing about any charter-parties.

20th. Knows nothing about this question. Saw no papers destroyed or thrown overboard, or concealed.

23 21st. Matamoras, the place where we were captured, is not blockaded by the United States.

22nd. No.

23rd. I know nothing about any blockade of Matamoras by the United States; never heard that Matamoras was blockaded. The Volant had not been boarded by any U. S. officer before the capture.

24th. The Volant has never attempted covertly or secretly to enter a blockaded port, or run from a blockaded port.

25th. The vessel has not been condemned nor seized before her present capture.

26th. I have sustained no damage by the seizure of the vessel.

27th. Don't know that the Volant and cargo are insured.

28th. Knows nothing about the question. Don't know who owns the vessel or cargo.

29th. No.

30th. After the goods had been placed aboard at London, they were

24 not removed or transhiped to the time of the seizure.

31st. Don't know.

32nd. Saw no papers taken away or delivered from the vessel before the seizure. When we were taken all the papers on board were taken away by the officer.

33rd. No bulk was broken during the voyage.

34th. We had no passengers at all. Nobody secreted on our vessel.

35th. I know nothing about the papers of the Volant. I had nothing to do with them.

36th. We were at anchor off Matamoras some 5 miles when we were taken.

37th. Don't know of any sale or transfer of the Volant.

38th. We had neither guns, arms, or ammunition.

39th. Don't know.

40th. The Volant never sailed under the convoy of any armed ship

25 or ships.

41st. The Volant never attempted in this or any previous voyage, to my knowledge, to run the blockade of any blockaded port.

42nd. She did not, to my knowledge, have any commission or letter of marque or cruize against property of the citizens of the United States.

43rd. She never acted in concert with any armed vessel or vessels, that I ever knew of.

DANIEL LLOYD, *Mate.*

Sworn to and subscribed before me this 20th November, 1863.
ALFRED SHAW, *Special Prize Com'r.*

26 District court of the United States for the eastern district of Louisiana.

In the matter of the brig Volant and cargo, a prize.

Deposition of William Morris Lay, steward, a witness produced, sworn, and examined in preparatorio on the 20th day of December, A. D. 1863, at the prize commissioners' office on the standing interrogatories established by the district court of the United States for the eastern district of Louisiana, the said witness having been produced for the purpose of such examination by Rufus Waples, esq., U. S. district attorney, in behalf of the captors of a certain vessel called the Virginia.

To the first interrogatory the witness answers: 1st. I was born in London, England. I live there, and have always done so when not at sea. I am a subject of Great Britain, to which country I owe my allegiance. I am married, and my family live in London.

27 2nd. I was present at the capture of the brig Volant and cargo.

3rd. The capture was made in the bay of Matamoras, and the vessel was brought to New Orleans. The Volant had no commission to make prizes to my knowledge. I heard no reason given for the capture.

4th. The Volant sailed under English colors, and had no other colors on board.

5th. There was no resistance made at the time of the capture. There were no guns fired. The capture was made by the U. S. steamer Virginia. There were twenty or twenty-five vessels, of all kinds, in sight. The Volant was a merchantman. I do not know who owned the vessel. The capturing vessel was a ship-of-war.

6th. I do not know whether the capturing vessel had any commission to make prizes. The Volant has not been condemned yet that I know of.

7th. The name of the vessel taken was the Volant, and her captain's name was De Gruchy. I do not know his given name. I do not know who appointed him to the command of the vessel. I have known the vessel

28 since the 19th of August, the day I shipped on board at London. I have known the captain for the same length of time. The captain is married, and I believe he was born in Jersey. I believe he is a subject of Great Britain.

8th. The Volant's tonnage I do not know. There were 10 men on board at the time of capture, all told, and all belonged to the vessel. There is one Scotchman, one Dutchman, seven Englishmen, and one Welchman. They all came on board at almost the same time and place—that is, London.

9th. I belonged to the Volant in the capacity of steward and cook. I do not know whether any of the officers owned any part of the vessel or cargo.

10th. I saw the vessel in London for the first time in August last; she carried no guns. There were 10 men on board before and after her capture. I believe she was built in some port of North America. Her name is the Volant, and she has always been so called.

11th. We were bound for Matamoras, and after, to any part of British America for a cargo. The voyage commenced at London, and was to end, with

the cargo on board, at Matamoras, where we were to discharge our
29 cargo, and from thence proceed to the West Indies or up to British America for a return cargo to any part of the United Kingdom of Great Britain or the continent of Europe.

12th. I know nothing of the vessel's papers. The Volant was at the harbor at Matamoras when taken, to which place we had proceeded direct. The cargo was put on board before I shipped on her. She had a general cargo of bales and boxes. I do not know their contents. The same cargo is on board at present. The last clearing port was London.

13th. I do not know when the cargo was put on board, nor of what it consisted.

14th. I do not know who were the owners of the vessel or cargo.

15th. I do not know anything in regard to a bill of sale.

16th. The cargo was put on board at London. I do not know what month; it was this year some time. I do not know the laders or consignees thereof.

30 17th. I know nothing about the papers.

18th. I know nothing about the papers.

19th. The capture was made in the bay or harbor of Matamoras, on Tuesday, Nov. 3rd, 1863.

20th. There were no papers destroyed to my knowledge.

21st. We did not have any information that the port of Matamoras was blockaded.

22nd. I do not know whether it is under an order of blockade or not. It is a Mexican port.

23rd. The register was not examined along our voyage from London to Matamoras, as we saw no war vessels during the entire passage after leaving London until we came to Matamoras.

25th. The Volant has never been condemned to my knowledge.

24th. The Volant never attempted to enter any blockaded port.

26th. I have lost nothing as yet by the capture of the Volant.

31 27th. I do not know whether either the vessel or cargo are insured.

28th. I do not know who the cargo would have belonged to had we discharged it at Matamoras.

29th. I know nothing of the growth or manufacture of the cargo.

30th. I do not know how the cargo was put on board; it was all stowed away when I came on board.

31st. I know nothing about the papers.

32nd. I saw the capturing officer carrying away what I supposed was the papers.

33rd. Bulk was not broken during the voyage.

34th. There were no passengers on board when we left London for Matamoras. There were no persons on board but those I have mentioned.

35th. I know nothing at all in regard to the vessel's papers.

36th. The Volant always steered for Matamoras when wind and
32 weather permitted. We were at anchor when we were captured.

37th. I know nothing of the sale or transfer of the vessel.

38th. There were no guns on board. There was no ammunition or arms or warlike material on board to my knowledge.

39th. I really believe the vessel was bound from London to Matamoras, and intended to discharge her cargo there.

40th. We sailed under the convoy of no ship or ships of war, during the voyage on which we were taken.

41st. We never attempted to enter any port blockaded by the naval forces of the United States government, or of any other power. We sailed direct to Matamoras, Mexico.

42nd. The vessel concerning which I am now examined did not sail on her last voyage carrying a commission or license as a privateer, letter of marque or reprisal, or any commission to cruize against or seize the
33 property or persons of citizens of the United States.

43d. The Volant never sailed or acted in concert with any armed vessel or vessels whatever.

WILLIAM MORRIS LAY.

Sworn to and subscribed before me this 20th day of November, A. D. 1863.
ALFRED SHAW, *Special Prize Commissioner.*

Letters from captors, filed with prize commissioners' report.

U. S. STEAMER VIRGINIA,
Nov. 5, 1863, *off the coast of Texas.*

SIR: I have to report to you the capture by this vessel of the British brig Volant, of Jersey, off the coast of Texas, this day.
34 At the time of capture the Volant was lying about three miles from the shore with the middle of the bar bearing W.SW. by compass. Upon examination of her papers I found she had the following articles contraband of war on board, viz: Boots and shoes, army blankets, cases of stockings, and bales of Confederate uniform woolen cloth.

The U. S. sloop-of-war Monongahela and the U. S. gunboat Owasco were in sight at the time of the capture. The officer in charge of the prize has all the papers found on board.

Very respectfully, your ob't serv't,

CHAS. H. BROWN,
A. V. Lieut., Com'd'g U. S. St'r Virginia.

To the JUDGE OF THE U. S. DISTRICT COURT, *New Orleans.*

U. S. STEAM SLOOP MONONGAHELA,
Brazos de Santiago, Texas, November 6th, 1863.

SIR: I have the honor to present the claim of the officers and crew of this ship who are entitled to share in the prize brig Volant, captured by the Owasco and Virginia off the Rio Grande on the 5th inst.
35 This ship was within signal distance and had an officer and boat's crew on board of the Owasco at the time of the capture. A prize list has been forwarded to the Navy Department.

Very respectfully, your most ob't serv't,

J. H. STRONG, *Commander.*

To the Hon. JUDGE OF U. S. DIST. COURT, *New Orleans.*

P. S.—If other evidence is required in reference to signal distance all the officers will testify to it.

J. H. STRONG, *Commander.*

Papers and documents found on board the brig Volant and filed by prize commissioner November 25th, 1864.

DOCUMENT D.

No. 77 CORNHILL, E. C., LONDON, 21*st August,* 1863.

Capt. De Gruchy, brig Volant:

36 DEAR SIR: Enclosed you will find all your clearances and other documents as named at foot, and you will now proceed with all possible despatch to Matamoras, Mexico, and on arrival there place your vessel in

the hands of Messrs. Wolf & Hildeshein, merchants, of that port, and to whom the whole of your cargo is consigned. You will please to take their instructions in all matters respecting the charter of your vessel, discharging, landing, and return voyage, and on your arrival at your port of destination as ordered by them you will please at once to communicate with us, and we will at once advise you the house to whom you will consign your vessel inward; or should you call for orders, we will send you instructions to proceed to a port of discharge.

Wishing you a prosperous voyage, we are, dear sir, yours truly,

JAMES BENNETT & WAKE.

List of papers, &c., enclosed.

37 Ship's manifest; copy of bill of lading; four mate's receipts; ship's register, and AA and BB, customs clearance papers; three cargo books; consul's manifest clearance; consul's papers, in one cover, addressed to senor administrador de la aduana del puerto de Matamoros, to be handed to Messrs. Wolf & Hildeshein, at Matamoras.

DOCUMENT N.

Manifest of the brig Volant, of Jersey, 226 tons register; Philip De Gruchy, commander; cleared out of the port of London 19th of August, 1863, for Matamoras. James J. Bennett & Wake, ship and insurance brokers.

No. of bill lading.	Marks.	Numbers.	Description of goods.	Consignees.
1	M J S	1–68	68 cases books	Wolf & Hildeshein
	M J S	86–143	58 ....do	....do
	S S	1–5	5 ....do	....do
	H B	1–33	33 ....do	....do
	S		500 cases brandy	....do
	[P] N	251–319	69 bales blankets	....do
38	[B] B	320–9	10 ....do	....do
	[B]	1,067–81	15 bales cloth	....do
	[L]	1–32	32 cases	....do
	C L J		1,539 cases brandy	....do
	[P] N		219 ....do	....do
	[B]		1 truss samples	....do
			1 parcel	....do

DOCUMENT G.

Shipped, by the grace of God, in good order and well conditiond, by Jas. J. Bennett & Wake, as agents in and upon the good ship called the Volant, whereof is master, under God, for this present voyage, P. De Gruchy, and now riding at anchor in the port of London, and, by God's grace, bound for off the Rio Grande, Gulf of Mexico, for Matamoras, two thousand five hundred and forty-eight packages of merchandise, one truss, and one parcel samples, being marked and numbered as in the margin, and are to be delivered in the like good order and well conditioned at the aforesaid port off the Rio Grande, Gulf of Mexico, (the act of God, the queen's enemies, fire, and all and every the dangers and accidents of the seas, rivers, and navigation of whatever nature and kind so-

M J S	1–68	68 cases.
M J S	86–143	58 cases.
S S	1–5	5 cases.
H B	1–33	33 cases.
S		500 cases.
[P] N	251–319	69 bales.
B	320–9	10 bales.
[B]	1,067–81	15 bales.
[B]	1–32	32 cases.
[L]		1,539
39 C J L		219
Total		2,548 packages.

[P] N 1 truss and [B] 1 parcel samples.

ever excepted,) unto Messrs. Wolf & Hildeshien, Matamoras, or to their assigns. Freight for the said goods to be paid here, with primage and average accustomed.

In witness whereof, I, the said master of the said ship, hath affirmed to 4 bills of lading, all of this tenor and date, one of which being accomplished the others to stand void. And so God send the good ship to her desired port in safety. Amen.

Dated in London this 18th day of Aug't, 1863.

PHILIP DE GRUCHY.

40 DOCUMENT H.—*Certificate of British registry.*

Official number, 42,246; port number, 36; date of registry, 2nd November, 1861; signal letters, T J B K; name of ship, Volant; British or foreign built, British, built at Bathhurst, in the province of New Brunswick, on the 27th of July, 1860; port of registry, Jersey; how propelled, by sails; number of decks, one; number of masts, two; rigged, brig; stern, square; build, carvel; galleries, none; head, billet; framework, wood.

Measurements.

	Feet.	Tenths.
Length from the forepart of stem under the bowsprit to the aft side of the head of the stern-post	108	4
Main breadth to outside plank	25	9
Depth of hold from tonnage deck to ceiling at midships	12	7½

Name and address of builder, John Meahan, Bathurst, New Brunswick.

Tonnage.

	No. of tons.
Tonnage under tonnage deck	226 14-100
Closed-in spaces above the tonnage deck, if any, viz:	
Space or spaces between decks	
Poop	
Roundhouse	
Other inclosed spaces, if any, naming them	
Total register tonnage	226 14-100

41 We, the undersigned, registrars of the port of Jersey, hereby certify that the ship the description of which is prefixed to this our certificate has been duly surveyed, and that the above description is true; that Philip De Gruchy, whose certificate of competency is No. 16,461, is the master of the said ship, and that the names, residence, and description of the owners, and number of sixty-fourth shares held by them are as follows:

Name, residence, and occupation of the owners.	Number of 64th shares.	
Matthew Gallichan	(sixteen)	16
Tom. Charles Le Gros	(sixteen)	16
Edward Le Couteur	(sixteen)	16
John Le Cras	(sixteen)	16
(All of the island of Jersey, ship-owners.)		64

Dated at the custom-house, Jersey, the second day of November, one thousand eight hundred and sixty-one.

CH. CHARLETON, *Act'g for Register.*

By command of the l't gov'r.

T. W. CLARKE, *Comp't.*

W. H. GAIDEUL, *Gov'r Sec'y.*

Notice.—A certificate of registry, granted under the "Merchant Shipping Act, 1854," is not a document of title. It does not necessarily contain notice of all changes of ownership, and in no case does it contain an official record of any mortgages affecting the ship.

42 Attached to register:

BB.—Foreign-going ship. BB, No. 157.—Certificate for clearing inwards. Sanctioned by the board of trade May, 1855, in pursuance of 17 and 18 Vict., c. 104.

Name of master, P. De Gruchy; name of ship, Volant; official number, 42,246; port belonging to, Jersey; registered tonnage, 226; port of discharge, London; from whence arrived, Porto Rico. Payments fees, £1 0*s.* 0*d.*; forms, ——; total, £1 0*s.* 0*d.*

I certify that the above-named master has this day deposited with me his agreement, official log-book, also a list of his crew, and all other documents required, (pursuant to the provisions of the statute in that behalf,) on his return voyage from Porto Rico, and has paid the fees above-mentioned.

Dated at London, Sailors' Home, Wells st., 7 day of Aug't, 1863.

GEO. SIMMONS, *Shipping Master.*

Attached:

AA.—Foreign-going ship. AA, No. 243.—Certificate for clearing outwards. Sanctioned by the board of trade May, 1855, in pursuance of 17 and 18 Vict., c. 104.

Name of master, P. De Gruchy; name of ship, Volant; official number, 42,246; port belonging to, Jersey; registered tonnage, 226; port of
43 departure, Sailors' Home, Wells st., London; destination of voyage, Matamoras. Payments: Fees, £1 0*s.* 0*d.*; forms, ——; log, ——; total, £1 0*s.* 0*d.*

I certify that the above-named master has engaged his crew before me, and has produced the certificates of himself and of such of his mates as are required to produce certificates, and has made the above-mentioned payments, *or has otherwise complied with the provisions of the statutes in that behalf.*

Dated at Sailors' Home, Wells st., London, 14 day of Aug't, 1863.

GEO. W. MOREHUM, *Shipping Master.*

Note.—The words in italics relate to the case of remaining agreements and to cases in which no fee is payable.

Attached:

Seymour, 19, 8, 63.—Over sea voyage. No. ——.

CUSTOM-HOUSE, *Queenstown, 24 day of July,* 1863.

These are to certify that Mr. De Gruchy, master of the Volant, of Jersey, of 226 tons register, from Porto Rico to London, hath paid the sum of three pounds five shillings and four pence for light, &c., duties for the said voyage as under stated.

(Signature) N. SEYMOUR, *Collector.*

Rate.	Amount.
General coast lights, p'r ton, 7 1-18	£6 13 0
p'r vessel	7 0
Local lights, p'r ton	18 10
p'r vessel	4 6
	8 3 14
Abatement, (1861,) 60 per cent	4 18 0
	3 5 4

44 Attached:

C. 61,054. CUSTOM-HOUSE, *London*, 20 *day of Aug't*, 1863.

These are to certify that Mr. Bennett, [here insert whether master of or agent for,]* the Volant, official number, ——, of 226 tons register, of Jersey, from London to Matamoras† by ——, hath paid the sum of two pounds one shilling —— pence for light, &c., duties for the said voyage as under stated.

(Signature) W. VAHAM, *for Collector*.

Rate.	Amount.
General coast lights, p'r ton, 5 7-18	
p'r vessel	
Local lights, p'r ton	
p'r vessel	
By order in council dated 25th July, 1861, abatement 60 per c't..	
Nett amount	£2 1 0

Duties last paid at , on the day of , 186 .

45 DOCUMENT J.—*Three dray receipts.*

Received, August, 1863, on board the brig Volant, captain , for
L 1-1,539 Matamoras, lying at W. I. docks, for Messrs. Bennett & Wake,
C L J 1,641-1,759 seventeen hundred and fifty-eight cases brandy.

D'L LLOYD, *Mate.*

J. T. HAMILTON, *Licensed Waterman*, 21 *Water Lane, Great Tower street.*

M J S 86-143
H B 32-33
B 1-32

Received, August, 1863, on board the Volant, Captain , for Matamoras, lying W. I. docks, sixty cases leather ware, thirty cases do.

D'L LLOYD, *Mate.*

J. T. HAMILTON, *Licensed Waterman*, 21 *Water Lane, Great Tower Street.*

W. Vokins' lighterage by steam, great northern railway, Good's Station, King's Cross, and 2 Fowke's Buildings, Tower street.

LONDON, *August*, 1863.

46 Received, in good condition, on board the ship, lying in W. I. docks, Volant, per barge Demurrage, on account Messrs. Bennett & Wake.

*It is particularly requested that this information be inserted.

†When two or more courses are open to a vessel it is requested that the one taken be specified.

Should any package appear to be damaged, or in such state that the officials in charge do not feel justified in giving a "clean" receipt for it, notice in writing must be given thereof; and such package is not to be stowed away until a proper survey has been held upon it. A charge of 15*s.* per day (demurrage) will be incurred after 2 clear days lying to unload.

Marks.	Description of packages.
[P] N 251–319	69 bales.
[P] N B 320–9	10 bales.
[B] 1, 067–81	15 bales.

D'L LLOYD, *Mate.*

DOCUMENT M.—*Victualling bill.*

Pilot unknown. Port of London. Granted number, 944. Bonded and drawback stores in the Volant, De Grucho master, for Matamoras. Men, 10. Passengers or troops, ——. Guns, ——. Tons, 226.

47 Spirits, foreign: (Net quantities taken on board.)

Rum, per gallon, ——; brandy, per gallon, ——; Geneva, per gallon, 3⅔; other spirits, not sweetened, per gallon, ——.

Spirits, British or plantation:

Rum, per gallon, ——; gin, per gallon, ——; whiskey, per gallon, ——; other spirits, not sweetened, ——.

Wine, per gallon, 2; wine, (for drawback,) per gallon, ——; beer, (for drawback,) per gallon, ——; vinegar, per gallon, ——; tea, per lb., 24; coffee, per pound, 56; coffee, roasted, (for drawback,) per pound, ——; cocoa, per pound, ——; cocoa paste, per pound, ——; sugar, refined, per cwt., ——; sugar, refined, (for drawback,) per cwt., ——; sugar, unrefined, (for drawback,) per cwt., 1 0 0; sugar, bastard, (for drawback,) per cwt., ——; molasses, per cwt., ——; tobacco, (for drawback,) per bb., ——; tobacco, negrohead, per bb., 36; tobacco, roll, per bb., ——; segars, per bb., ——; pepper, per bb., ——; raisins, per cwt., ——; currants, per cwt., 1 0; figs, per cwt., ——; prunes, per cwt., ——; plums, per cwt., ——; sundries, per cwt., ——; surplus stores, per cwt., ——.

Examined. S. MEEK, *Searcher.*

Cleared August 19th, 1863.

THOS. P. THORPE, *Collector.*
J. J. BENNETT & CO.,
Brokers, 77 *Cornhill, Residence.*

48 Attached:

No. 5.— *Shipping bill, (duplicate.)*

Transhipment of goods, Volant, master, De Gruchy, for Matamoras; country, Britain; tons, ——; entered, outwards; I. Gold, exporter or agent, Lower Thames st., residence.

One hundred and four cases women's leather shoes; fifteen thousand five hundred pair, being sixteen hundred and sixty-six and eight-twelfths.

G. KING.

Reported inwards 31 July, 1863. Ex. ship John Bull, master, Marshal, from Hambro. Cleared 604, date, 11 Aug't, 1863. Station where vessel is lying, West India docks. Lighterman, Hamilton.

Countersigned: ——— ———, *Searcher.*

If a duplicate is required, fill in the space after *with*; if not required, say *no*; if to form duplicate, erase *with*.

Attached:

[SEAL] Number of certificates, two; ship, Volant; master, P. D. Gruchy, for Matamoras; date of clearance, Aug't 19th, 1863. S. Meek, searcher. Thos. P. Thorpe, collector. No. 446, cocket card.

49 No. 220.—*Consul's manifest clearance.*

[SEAL] James L. Hart, vice consul de la republica Mexicana en Londres:

Certifico haber recibido el manifiesto del S'or Capitan Philip De Gruchy, que contiene dos mil quinientos cincuenta bultos de mercancias, con la marca al margen, a bordo del buque de vela Volant, con destino al puerto de Matamoros, a la consignacion de los Senores Wolf & Hildeshein de aquel comercio.

Y para que conste doy la presente firmada por mi en Londres a veinte de Agosto, mil ochocientos sesenta y tres.

JAMES L. HART.

No. 142.—*Letter to adm'dor de la aduana de Mat'as.*

VICE CONSULADO DE MEXICO EN LONDRES, *a 20 de Agosto*, 1863.

SENOR ADMINISTRADOR: Inclusos tengo el honor de remitir a V. el
50 manifiesto No. 220, y la factura No. 221, de un embarque a bordo del bergantin Britanico Volant, su Capitan Philip De Gruchy, que deja este puerto con destino al de Matamoros, a la consignacion de los Senores Wolf & Hildeshein, de este comercio.

Lo que tengo el honor de informar a V. para las fines que convenga, suscribiendome del s'or administrador, con sentimientos de alta consideracion.

Muy at'o seguro servidor,

JAMES L. HART.

Al s'or administrador de la aduana del puerto de Matamoras.

No. 221.—*Consul's certificate.*

James L. Hart, vice consul de la republica Mexicana en Londres:

Certifico haber recibido la factura de los S'res James Bennett & Wake, que contiene dos mil quinientos cincuenta bultos de mercancias, con la marca al margen, a bordo del buque de vela, Capt. Philip De Gruchy,
51 Volant, con destino al puerto de Matamoras, a la consignacion de los S'res Wolf & Hildeshein, de este comercio.

Y para que conste doy la presente firmada por mie en Londres a viente de Agosto, mil ochocientos sesenta y tres.

JAMES L. HART.

No. 220.—*General manifest.*

General manifest of merchandise shipped to the port of Matamoras, in the Mexican republic, which the undersigned has on board the British brig Volant, two hundred and twenty-six 14-100 tons, ten men, Captain Philip De Gruchy, and consigned to Messrs. Wolf & Hildeshein, in the port of Matamoras.

Marks.	Numbers.	Gross weight. Pounds.	Number of packages.	Nature of packages.	Description of goods.	Shippers of goods.
[B]	1,067–8 1,079–81 1,069–1,078	3,071; av. weight, 614..... 4,687; do....468	Five..... Ten. ..... One.....	Bales..... ...do..... Parcel.	Woolen cloth.. .....do..... Samples.	Jas. J. Bennett & Wake. Do. Do.
52 [P] N—B [P] N	251–319 320–329 251	41,518; av. w'g't, 525..... 92	79. ..... One.....	Bales.... ...do.....	Woolen blankets. ..... Samples.....	Do. Do.
M J S	1–68 83–143	26,586; do...211	126.....	Cases.....	Leather boots..	Do.
S S	1–5	906; do.....180	Five.....	...do... ...	.....do.....	Do.
H B	1–33	5,016; do.. ..152	33	...do	.....do.....	Do.
		21,000; do.. ..42	500	...do.....	Brandy.....	Do.
[B]	1–32	8,704; do.. ..272	32..... ...	...do	Woolen stockings..... .	Do.
[L] C LJ		73,836; do 42	1,758.....	...do	Brandy.....	Do.

Total, 2,550 packages. Consignees Wolf & Hildeshein.

I hereby declare that the within manifest is a true account of all goods shipped in my vessel, and that I come with a legal intention of trading with the port of Matamoras, in the republic of Mexico.

London, 20th August, 1863.

PHILIP DE GRUCHY, *Master.*

53 *Bill of health.*

To all to whom these presents shall come, we, the undersigned officers of her majesty Queen Victoria, in the port of , in the city or town of London, send greeting:

Whereas the vessel called the Volant, whose master is Philip De Gruchy, is about to sail from the said port of London, on this nineteenth day of August, in the year of our Lord one thousand eight hundred and sixty-three, and from thence for Matamoras and other places beyond the seas, with ten persons on board, including the said master:

Now, know ye that we, the said officers, do hereby make it known to all men and pledge our faith thereunto that at the time of granting these presents no plague, epidemic, cholera, nor any dangerous or contagious disorder exists in the above port or neighborhood.

In testimony whereof, we have hereunto set our names and seal of office on the day and year aforesaid.

Given in the custom-house of the port of London on the 19th day of August, A. D. 1863.

[SEAL.] THOS. S. THORPE, *pro Coll.*

54 El infrascrito V. consul de Mejico en Londres, &c.:

Certifico que el senor cuya firma antecede es como se titulo pro recandador de esta aduana, y que dicha su firma merecetoda f'e y credito. Y para que consta y cause los efectos que convenga, firmo la presente y la refrendo con el sello de oficio.

Londres, 20 de Agosto, 1863.

[SEAL.] JAMES L. HART.

Letter to consignees.

Messrs. Wolf & Hildeshein, Matamoras:

DEAR SIRS: Enclosed we beg to hand you authenticated copy of charter-party of brig Volant, and the invoices, bill of lading, and Mexican consulate certificate of the cargo of that vessel, which we trust you will find in order.

We have also forwarded by the vessel the Mexican consulate papers addressed to the administrator de la aduana del puerto de Matamoras, which will be handed to you by Capt. De Gruchy, and you will please see
55 they are delivered to the proper authorities, as we have given our assurance to the consul that they would be safely delivered, and after some trouble induced him to send the papers by the vessel instead of by mail, so as to prevent any delay in case of their not arriving before the vessel.

You will notice by the charter-party that the vessel has 50 lay days at Matamoras, Sundays excepted, of which she has consumed only 4 days in loading in London, and which we have endorsed on the charter-party. You will also observe that a clause is inserted giving you the option of sending the vessel to Havana to load for United Kingdom or continent should you find you could not load her at Matamoras, or in case of peace you have liberty of sending her to Galveston or any principal port in the Confederate States to load, with exception of New Orleans, to which the owner would not consent. Trusting, however, you will be able to load and despatch her within her time from Matamoras, we remain, dear sirs, yours truly,

JAMES BENNETT & WAKE.

List of papers enclosed: One bill of lading, one consul's certificate, six invoices, one certified copy of charter-party.

56 A.—*Charter-party.*

LONDON, *August 7th*, 1863.

It is this day mutually agreed between Messrs. M. Gallichan & Co., owners of the good ship or vessel called the Volant, A 1, coppered, of Jersey, of the measurement of 226 N. N. M. tons, or thereabouts, now in London, , commander, and James J. Bennett & Wake, merchants and freighters—

That the said ship, being tight, staunch, and strong, and every way fitted for the voyage, shall, with all convenient speed, load in the West India dock all such legal merchandize as may be sent alongside, and therewith proceed to Matamoras, Mexico, and there deliver same as customary.

No arms, ammunition, powder, shot or shell, sulphur or saltpetre to be shipped. Vessel to be in loading berth on 13th August next, or so near thereunto as she may safely get, and there, after discharge, reload from the factors of the said freighter a full and complete cargo of legal merchandize, which the said freighters bind themselves to ship, not exceeding what she can reasonably stow and carry away over and above her tackle, apparel, provisions, and furniture, and being so loaded shall therewith proceed to a safe port in the United Kingdom or continent between Havre and
57 Hamburg, as ordered, on signing bills of lading, or calling at Queenstown or Falmouth for orders, or so near thereunto as she may safely get, and deliver the same on being paid freight as follows:

A lump sum of thirteen hundred pounds for full reach of ship's hold and cabin, and fifty pounds extra if discharged on continent, and 10 guineas gratuity to master, in full of all port charges and pilotage as customary, (the act of God, the queen's enemies, fire, and all and every other dangers and accidents of the seas, rivers, and navigation of whatever nature or kind soever during the said voyage always excepted.)

The freight to be paid as follows: Five hundred pounds (£500) by bill l'g, thirty days from date of ship's leaving England, less insurance only, and balance, one half in cash on delivery and remainder by good and approved bill on London at 3 months date, or cash equal thereto, at owners' option. Fifty running days, Sundays excepted, are to be allowed the said merchant, (if the ship is not sooner despatched,) for loading, discharging, and reloading the said ship at London and Matamoras, to commence and be computed from the several periods of the vessel being clear and ready for their purposes; the master giving freighter's agents written notice to that effect.

And all days on demurrage over and above the said laying days at
58 six pounds per day. Sufficient cash for ordinary ship's disbursements to be advanced the master, not exceeding £100, at current rate of exchange, less cost of insurance only against the freight.

All goods to be brought to and taken from alongside at the expense and risk of the freighter; ship always laying afloat, and the master to sign bills of lading at any rate of freight required without prejudice to this charter-party. The owner to have an absolute lien upon the cargo for all freight, dead freight, and demurrage. The vessel upon her return to be addressed to Seymour, Peacock & Co., London, (if to an out-port to their agent,) to whom the commission of 5 per cent. upon this charter-party is due, ship lost or not lost, and with whom the original charter-party is deposited. Penalty for non-performance of this agreement, estimated freight. The vessel to be addressed to the freighter's agents at free of commission at Matamoras, but paying 2½ per cent. commission in London.

(S'd) GALLICHAN & CO.
(S'd) JAMES J. BENNETT & WAKE.

Witness to the signature of both parties.
Witness to the signature: (S'd) ALE MOSSES.

Charterers to have option of ordering the vessel from Matamoras to load at Havana for U. K. or continent, they paying all port charges and commission, or in event of peace being proclaimed between Northern and Southern States, North America, charterers have permission to send the vessel to Galveston, Mobile, Apalachicola, Savannah, or Wilmington, one port only, to load as within agreed, they paying all port charges and a further sum of £200 if ordered either to Havana or any of the above ports.

This is a true copy of the original charter-party in our possession.

SEYMOUR, PEACOCK & CO.

Endorsed: The vessel to be consigned to Messrs. Wolf & Hildeshein, at Matamoras, and four days have been consumed in loading the vessel in London, leaving forty-six days at Matamoras, Sundays excepted.

59 London, 21st August, 1863.

PHILIP DE GRUCHY.
JAMES J. BENNETT & WAKE.

DOCUMENT K.—*Letter to Jas. J. Bennett, Matamoras.*

No. 77 CORNHILL, E. C., *London, 21st August*, 1863.

MY DEAR BENNETT: As the Volant sails for Matamoras to-day I herewith send you a couple of Times papers of yesterday and to-day, where you will see both my letter and also an article in to-day's paper, which must have evidently been written under good inspiration, so as to help them in doing as little as possible in regard to Peterhoff. We are now daily looking for the st'r Queen, with letter from you by her. I wrote you fully by the last French mail and have nothing further to communicate.

It is difficult to meet with any vessel to charter home from Matamoras on the terms you name, but should you not get any vessel from Havana, if you write to Graham, Greves & Co., Vera Cruz, they will no doubt be able
60 to give you tonnage, as they have most all the English vessels bound to that port consigned to them.

G. H. is in Paris, but expect him over daily, but until we have letter from you have suspended all further shipments. As the sickly season will have set in I hope you have got out of the way of Matamoras. Everything is working with us as usual, and we are suspending all further action in the Matamoras trade until we get some satisfactory advice from you, and that cotton is steady on the way downward since.

I saw your mother last evening. She was looking well, but wants you back sadly; and your sister's children are all well, so that you can make your mind easy on that score, and in staying there over the sickly season I may hope you see your way clear to doing some good at the end of it, and if you can get all the matters squared up satisfactorily, I should certainly let Masters Bowdon and Meek swim; you will get no thanks for anything you do for them, and after the way they have served you I should certainly have no compunctions in tumbling them over, if possible. They

Wishing you health and prosperity, believe me, yours truly,

JOHN J. WAKE.

61 *Invoices of cargo.*

Invoice No. 1.

LEEDS, *August 13th*, 1863.

Invoice of goods consigned to Messrs. Wolf & Hildesheim, Matamoras, from N. P. & H. Nathan, of 604 cases forwarded for our acc't and risk to Matamoras, per sailing vessel Volant, (insurance under.)

M J S.	1–68.	68 cases,	75 pairs..	5,100 pairs boots.
S S.	1–4.	4 "	60 pairs, }	340 pairs boots.
	5.	1 "	100 pairs, }	
H B.	1–30.	30 "	60 pairs, }	1,855 pairs boots.
	31.	1 "	55 pairs, }	
		104 cases,		7,295 pairs boots, 4*s.* 6*d*.. £2,735 12 6

Packing charges	£54 10 0		
Insurance to London	9 15 0		
		64	5 0
S. 1–500. 500 cases John Richard cognac, 21*s.* 3*d*.		531	5 0
Insurance to London		1	6 7
Charges in London:			
Freight from Hamburg	£25 5 1		
Lighterage and custom-house office	30 2 0		
Clearance, 104 cases, 1*s.*, 500 cases, 2*d*.	9 7 4		
Bill of lading, consul's certificate, London shipping agent commission	22 17 6		
		87	11 11
Freight to Matamoras		216	0 0
Insurance to Matamoras		295	8 6
		3,931	9 6

E. E.

N. P. & H. NATHAN.

Nos.	Gross average weight.	Measurement.		
		L.	B.	D.
MJS. 1	13	....	....	....
2	1 3 13	86	15	14
3	.....	....	....	....
4	.....	....	....	....
5	1 3 17	....	....	....
6	1 3 13	....	....	....
7	3 13	....	....	....
8	.....	....	....	....
9	.....	....	....	....
10	.....	....	....	....
11	.....	....	....	....
12	.....	....	....	....
13	.....	....	....	....
14	.....	....	....	....
15	.....	....	....	....
16	.....	....	....	....
17	.....	....	....	....
18	.....	....	....	....
19	.....	....	....	....
20	1 3 10	....	....	....
21	1 3 13	....	....	....
22	.....	....	....	....
23	1 3 10	....	....	....
24	1 3 13	....	....	....
25	.....	....	....	....
26	.....	....	....	....
27	.....	....	....	....
28	.....	....	....	....
29	.....	....	....	....
30	1 3 17	....	....	....
31	1 3 13	....	....	....
32	1 3 9	....	....	....
33	1 3 13	....	....	....
34	.....	....	....	....
35	.....	....	....	....
36	.....	....	....	....
37	.....	....	....	....
38	1 3 12	....	....	....
39	1 3 13	....	....	....
40	1 3 13	....	....	....
41	1 3 12	....	....	....
42	1 3 13	....	....	....
43	.....	....	....	....
44	.....	....	....	....
45	.....	....	....	....
46	.....	....	....	....
47	.....	....	....	....
48	.....	....	....	....
49	.....	....	....	....
50	1 3 10	....	....	....
51	1 3 13	....	....	....
52	1 3 14	....	....	....

Nos.	Gross average weight.	Measurement.		
		L.	B.	D.
MJS 53	1 3 13	..	....	....
54	....	....	.	....
55	.....	....	....	....
56	.....	....	....	....
57	.....	....	....	....
58	1 3 13	86	15	14
59	.....	....	....	....
60	.....	....	....	....
61	.....	....	....	....
62	1 3 14	....	....	....
63	.....	....	....	....
64	.....	....	....	....
65	.....	....	....	....
66	....	....	....	....
67	.....	....	....	....
68	.....	....	....	....
S S. 1	1 2 14	86	16	14
2	.....	....	....	....
3	1 2 14	....	....	....
4	.....	....	....	....
5	.....	....	....	....
H B. 1	1 1 12	43	20	21
2	1 1 13	....	....	....
3	1 1 11	....	....	....
4	1 1 9	....	....	....
5	1 1 10	....	....	....
6	1 1 12	....	....	....
7	1 1 12	....	....	....
8	1 1 13	....	....	....
9	1 1 13	....	....	....
10	1 1 17	....	....	....
11	1 1 13	....	....	....
12	1 1 11	....	....	....
13	1 1 13	....	....	....
14	1 1 18	....	....	....
15	1 1 11	....	....	....
16	1 1 13	....	....	....
17	1 1 15	....	....	....
18	1 1 10	....	....	....
19	1 1 23	....	....	....
20	1 1 13	....	....	....
21	1 1 13	....	....	....
22	1 1 13	....	....	....
23	1 1 12	....	....	....
24	1 1 14	....	....	....
25	1 1 13	....	....	....
26	1 1 10	....	....	....
27	1 1 23	....	....	....
28	1 1 16	....	....	....
29	1 1 20	....	....	....
30	1 1 16	....	....	....
31	1 0 23	....	....	....

63 Invoice No. 2.

LEEDS, *August 17th*, 1863.

Invoice of goods consigned to Messrs. Wolf & Hindeshein, Matamoras, from N. P. & H. Nathan, of 1,758 cases, forwarded for acc't and risk to Matamoras, per sailing vessel Volant, under insurance.

C L J. 194 cases brandy, Henry L. Leroy, 21*s.* 3*d*.....		£206	2 6
[L.] 1,564 cases brandy, Renelle & Co., 32*s*.....		2,503	8 0
Charges in London:			
Victoria Dock Co.'s rent, loading and housing rate, unhousing, wharfage, and shipping.....	£85 15 10		
Lighterage, custom-house officers.....	43 19 8		
Lighterage, Victoria docks to West India docks.	23 3 6		
Custom-house clearances.....	14 3 0		
Consul's certificate, notary's charges, London shipping agent's commission.....	9 15 0		
		177	7 0
Freight to Matamoras.....		214	0 0
		3,099	17 6
Insurance to Matamoras.....		251	17 6
		3,351	15 0

E. E.

Measure, 1 5-6 cubic foot each case. Average weight, 42 lbs. each case.

N. P. & H. NATHAN & CO.

64 Invoice No. 3.

LEEDS, *August 13th*, 1863.

Invoice of goods consigned to Messrs Wolf & Hildeshein, Matamoras, from N. P. & H. Nathan, of 79 bales, forwarded for our acc't and risk to Matamoras, per sailing vessel Volant, under insurance.

[P] N. 251–254.	4 bales, 200 pairs, blankets, 66x84, 2,020 lbs	£130	9 2
255.	1 bale, 30 ditto, 303 lbs.....	19	11 4½
	20 ditto, 205 lbs	11	19 2
256–260.	5 bales, 250 ditto, 2,645 lbs.....	154	5 10
261.	1 bale, 10 ditto, 108 lbs.....	6	6 0
	40 ditto, 405 lbs.....	26	3 1½
262–267.	6 bales, 300 ditto, 3,073 lbs.....	198	19 3½
268–269.	2 bales, 100 ditto, 1,028 lbs.....	59	19 4
270.	1 bale, 30 ditto, 306 lbs.....	17	17 0
	20 ditto, 204 lbs.....	13	3 6
271–275.	5 bales, 250 ditto, 2,576 lbs.....	150	5 4
276–282.	7 bales, 350 ditto, 3,618 lbs.....	233	13 3
283–297.	15 bales, 750 ditto, 7,763 lbs.....	501	7 2½
298–301.	4 bales, 200 ditto, 2,078 lbs.....	121	4 4
B. 302–319.	27 bales, 1,350 ditto, 9,226+4,660 = 13,886 lbs.....	896	16 1
320–328.	40 ditto, 411 lbs.....	26	10 11
329.	1 bale, 10 ditto, 107 lbs.....	6	4 10
		2,574	5 9

Sample parcel with the above bales:

2 pairs blankets, 20.....	£1 3 4		
2 ditto, 20.....	1 5 10		
		2	9 2

Charges on bales:			
Packing 79 bales, 13*s.* 6*d*.....	£53	6	9
Carriage to London.....	40	10	0
Shipping charges, 79 bales, 5*s*.....	19	15	0
Freight to Matamoras	237	0	0
	2,927	6	6
Insurance to Matamoras.....	237	17	0
	3,165	3	5

E. E. N. P. & H. NATHAN.

Nos.	Weight. Gross.	Weight. Nett.	Measure. L.	B.	D.	Nos.	Weight. Gross.	Weight. Nett.	Measure. L.	B.	D.
P N 251	4 2 10	4 2 0	35	40	31	P N 291	4 2 25	4 2 15	34½	39	32
252	4 2 11	4 2 1	34½	41	31	292	4 3 0	4 2 18	36	39½	32
253	4 2 11	4 2 1	34½	40	31	293	4 2 20	4 2 10	34½	39½	32
254	4 2 12	4 2 2	34	39	31	294	4 3 5	4 2 23	34	39	31½
255	4 2 14	4 2 4	34	40	31½	295	4 2 17	4 2 7	34	39½	32
256	4 2 16	4 2 6	33½	40	31	296	4 2 21	4 2 11	34	39	31½
257	4 3 16	4 3 6	34½	40½	31½	297	4 2 26	4 2 16	34	40	32
258	4 3 13	4 3 3	35	41	31	298	4 2 25	4 2 15	35	40	32
259	4 3 8	4 2 26	34½	41	31	299	4 2 22	4 2 12	33½	39	32
260	4 3 10	4 3 0	34	41	31	300	4 3 0	4 2 18	34	40	32
261	4 2 19	4 2 9	34½	40	31	301	4 2 27	4 2 17	34½	40	31
262	4 2 24	4 2 14	35	40	31	302	4 2 17	4 2 7	34½	38½	31½
263	4 2 17	4 2 7	35	40	31	303	4 2 15	4 2 5	34½	38	30½
264	4 2 18	4 2 8	34½	39	31	304	4 2 17	4 2 7	35	41½	31
265	4 2 12	4 2 2	34½	39	30½	305	4 2 19	4 2 9	35	39	31½
266	4 2 21	4 2 11	34½	39	31	306	4 2 19	4 2 9	35	38	31
267	4 2 17	4 2 7	35	40	31	307	4 2 20	4 2 10	35	38½	31
268	4 2 20	4 2 10	34	40	32	308	4 2 21	4 2 11	34½	39	31
269	4 2 20	4 2 10	33	40½	32½	309	4 2 19	4 2 9	34½	38	30
270	4 2 16	4 2 6	35	41	31	310	4 2 13	4 2 3	35	38	31
271	4 3 1	4 2 19	34	39	31½	311	4 2 21	4 2 11	35	39	31
272	4 2 22	4 2 12	34	39½	31½	312	4 2 18	4 2 8	35	38	31½
273	4 2 22	4 2 12	34½	39½	32½	313	4 2 17	4 2 7	35	38½	31
274	4 2 18	4 2 8	34½	38½	32	314	4 2 16	4 2 6	35	37½	31
275	4 2 15	4 2 5	34½	38½	32	315	4 2 20	4 2 10	35	38	32½
276	4 2 19	4 2 9	35	38	31	316	4 2 22	4 2 12	35	39½	32
277	4 2 19	4 2 9	35	38	31	317	4 2 16	4 2 6	34	40	32
278	4 2 24	4 1 14	35½	37	30½	318	4 2 19	4 2 9	34	40	32½
279	4 2 21	4 2 11	35	37½	30	319	4 2 25	4 2 15	34½	41	32
280	4 2 24	4 2 14	35	37	31	320	4 2 20	4 2 10	33½	40	32½
281	4 2 25	4 2 15	35½	38	30	321	4 3 0	4 1 18	34½	40	32½
282	4 2 27	4 2 17	35½	38	31	322	4 2 18	4 2 8	33½	41½	32
283	4 3 2	4 2 20	34½	37½	32	323	4 3 0	4 2 18	34½	40	32
284	4 2 17	4 2 37	34	38½	32	324	4 2 25	4 2 15	30	40	32
285	4 2 26	4 2 16	34	38	31½	325	4 2 21	4 2 11	34½	40	32½
286	4 2 17	4 2 7	35	38	32½	326	4 2 18	4 2 8	34	39	32½
287	4 2 27	4 2 17	34½	37½	32½	327	4 2 23	4 2 13	34½	40	32
288	4 2 18	4 2 8	34	38½	32½	328	4 3 20	4 3 10	34	40½	31½
289	4 2 21	4 2 11	34	40½	32½	329	4 2 24	4 2 14	35	39	31
290	4 2 23	4 2 13	34½	38½	30¼						

67 Invoice No. 4.

Invoice of goods consigned to Messrs. Wolf & Hildshein, Matamoras, from N. P. & H. Nathan, of 60 cases forwarded for our account and risk to Matamoras, per sailing vessel Volant, under insurance.

M J S,	86–105.	20 cases,	75 pairs,	1,500 pairs boots.
	106–141.	36 cases,	80 pairs,	2,880 pairs boots.
	142–143.	2 cases,	84 pairs,	168 pairs boots.
H B,	32.	1 case,		60 pairs boots.
	33.	1 case,		40 pairs boots.
		60 cases,	4,648 pairs boots,	7*s.* 6*d.*.

				£1,743	0 0
Packing charges on 60 cases:					
Oil-cloth, etc	£36	15	6		
Insurance to London	5	17	6		
				42	13 0
Charges in London:					
Freight from Hamburg	9	9	9		
Lighterage and custom-house off	5	5	0		
Clearances, 60 cases	3	0	0		
Bill of lading, consul's cert'f. and London shipping agent company	8	15	0		
				26	9 9
Freight to Matamoras				78	0 0
				1,890	2 9
Insurance to Matamoras				153	14 6
				2,043	17 3

E. E. N. P. & H. NATHAN.

Nos.	Gross average weight.	Measure. L.	B.	D.	Nos.	Gross average weight.	Measure. L.	B.	D.
86	1 3 13	86	15	14	3	.....	....	....	....
87	.....	....	....	....	4	.....	....	....	....
88	.....	....	....	....	5	.....	....	....	....
89	.....	....	....	....	6	.....	....	....	....
90	.....	....	....	....	7	.....	....	....	....
91	.....	....	....	....	8	.....	....	....	....
92	.....	....	....	....	9	.....	....	....	....
93	.....	....	....	....	10	.....	....	....	....
94	.....	....	....	....	11	.....	....	....	....
95	.....	....	....	....	12	.....	....	....	....
96	.....	....	....	....	13	.....	....	....	....
97	.....	....	....	....	14	.....	....	....	....
98	.....	....	....	....	15	.....	....	....	....
99	.....	....	....	....	16	.....	....	....	....
100	.....	....	....	....	17	.....	....	....	....
1	.....	....	....	....	18	.....	....	....	....
2	.....	....	....	....	19	.....	....	....	....

Nos.	Gross average weight.	Measure. L.	B.	D.	Nos.	Gross average weight.	Measure. L.	B.	D.
20	.....	....	....	....	33	.....	....	....	....
21	.....	....	....	....	34	.....	....	....	....
22	.....	....	....	....	35	.....	....	....	....
23	.....	....	....	....	36	.....	....	....	....
24	.....	....	....	....	37	.....	....	....	....
25	.....	....	....	....	38	.....	....	....	....
26	.....	....	....	....	39	.....	....	....	....
27	.....	....	....	....	40	.....	....	....	....
28	.....	....	....	....	41	.....	....	....	....
29	.....	....	....	....	42	.....	....	....	....
30	.....	....	....	....	43	.....	....	....	....
31	.....	....	....	....	H B 32	1 10 10	43	20	11
32	.....	....	....	....	33	.....	....	....	....

69 Invoice No. 5.

Invoice for Messrs. Wolf & Hildeshein, of goods consigned to , Matamoras, from N. P. & H. Nathan, of 15 bales forwarded for our acc't and risk to Matamoras, per sailing vessel Volant, under insurance.

		Yds.			
[B] 1,067.	1 bale, 10	52-i. blue mixt cloths,	375		
1,068.	1 bale, 10	do.....	376¾		
			752, 6*s.* 9*d.*	£253	6 0
1,069.	1 bale, 10	do. 54-i. sky-blue cloths,	326¼		
1,080.	1 bale, 12	do.....	387		
1,071.	1 bale, 12	do.....	387¼		
1,072.	1 bale, 12	do.....	389¾		
1,073.	1 bale, 12	do.....	390½		
1,074.	1 bale, 12	do.....	387¾		
1,075.	1 bale, 12	do.....	387		
1,076.	1 bale, 12	do.....	391½		
1,077.	1 bale, 12	do.....	384¼		
1,078.	1 bale, 13	do.....	426½		
			3,857¾, 5*s.* 9*d.*	1,109	2 0
1,079.	1 bale, 12	do. 52-i. blue mixt cloths,	449¼		
1,080.	1 bale, 13	do.....	486¼		
1,081.	1 bale, 12	do. 52-i. dark mixt cloths,	436¾		
			1,372¼, 6*s.* 9*d.*	463	2 8
				1,826	0 8
Packing charges 15 bales, at 14*s*.....				10	10 8
Carriage to London.....				7	13 0
Shipping charges, 5*s.* per bale.....				3	15 0
Freight to Matamoras				36	0 0
Insurance to Matamoras.....				153	1 6
				2,307	0 2

70 E. E. N. P. & H. NATHAN.

Nos.	Weights.		Measures.			Nos.	Weights.		Measures.		
	Nett.	Gross.	L.	W.	D.		Nett.	Gross.	L.	W.	D.
B 1,067	4 2 9	4 3 9	29	24	43	B 1,075	3 3 25	4 0 25	29	24	41
1,068	4 2 17	4 3 18	29	24	42	1,076	3 3 26	4 0 26	29	24	41
1,069	3 1 1	3 2 0	29	24	34	1,077	3 3 16	4 0 16	29	24	41
1,070	3 3 23	4 0 23	29	24	41	1,078	4 1 12	4 2 12	29	24	44
1,071	4 0 4	4 1 3	29	24	41	1,079	5 2 1	5 3 3	29	24	50
1,072	3 3 25	4 0 26	29	24	41	1,080	5 3 18	6 0 19	29	24	51
1,073	3 3 26	4 0 24	29	24	40	1,081	5 1 25	5 2 26	29	24	50
1,074	3 3 24	4 0 24	29	24	41						

71 Invoice No. 6.

Invoice of goods consigned to Messrs. Wolf & Hildeshein, Matamoras, from N. P. & H. Nathan, of 32 cases forwarded for our acc't and risk to Matamoras, per sailing vessel Volant, under insurance.

[B] 1–31. 31 cases, 80 doz. pair, 2,480 doz. pair.
No. 32. 1 case ..... 90 "

Woolen stockings	2, 570 doz. pair, 12*s.* 6*d*.....		£1, 606	5 0
Packing charges in Hamburg.....	B256 0			
Insurance to London.....	53 4			
Bill, stamp, and brokerage.....	22 14			
	B332 4, at	£13 4*s*...	25	1 5

Charges in London :

Freight from Hamburg.....	£14	5	5		
Lighterage and custom-house offi.....	2	16	0		
Clearances, 32	1	12	0		
Bill of lading, consul's certificate, London shipping agent's com'n.....	4	7	6		
				23	0 4
Freight to Matamoras.....				84	0 0
				1, 738	7 4
Insurance to Matamoras				141	5 0
E. E.				1, 879	12 4

N. P. & H. NATHAN.

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Nos.	Measures.			Weights.	Nos.	Measures.			Weights.
	L.	W.	D.			L.	W.	D.	
[B] 1	46	32	30	2 1 0	[B] 17	41	31	30	2 1 2
2	43	33	30	2 1 7	18	46	32	29	2 1 14
3	42	31	30	2 0 23	19	43	33	33	2 2 7
4	42	36	28	2 1 2	20	45	34	32	2 2 13
5	44	33	28	2 1 2	21	40	30	30	2 0 24
6	42	34	32	2 2 6	22	40	28	28	2 0 27
7	42	33	32	2 1 27	23	42	32	32	2 1 24
8	42	33	42	2 1 20	24	42	31	30	2 1 7
9	52	34	28	2 1 22	25	48	35	29	2 1 18
10	43	29	23	2 1 27	26	40	33	29	2 2 1
11	44	31	29	2 1 19	27	36	34	34	2 2 0
12	44	36	27	2 1 7	28	40	32	32	2 1 9
13	44	34	32	2 2 2	29	40	33	32	2 1 21
14	45	35	31	2 2 12	30	44	30	28	2 2 17
15	44	32	32	2 1 21	31	40	30	28	2 0 7
16	43	33	32	2 1 25	32	40	29	28	2 0 6

73 *Extract and copy in connection with letter in regard to the prize bark Science, filed by prize commissioners Dec. 3rd, 1863.*

On the afternoon of November 5th I seized the British brig Volant, from London, loaded by the same brokers, and consigned to the same house in Matamoras, and upon her manifest I found 15 bales of woolen cloth of the same mark, [B,] and with numbers corresponding to the 290 bales discharged by the Science. I took samples of the 15 bales from the Volant, which I enclose with this report. The captain of the Volant also stated that these 15 bales were the balance of an invoice sent by the Science. Upon these grounds I considered her a legal prize and sent her to New Orleans for adjudication. At the time of the capture the U. S. st'rs Monongahela and Owasco were in sight, lying off Brazos de Santiago, and the officers of these vessels state that they were able to read signals at that distance.

Very respectfully, your ob't serv't,

(Sig.) CHAS. H. BROWN,

A. V. Lieut., Com'd'g U. S. Str. Virginia.

74 *Claim of P. De Gruchy, filed December 12th, 1864.*

District court of the United States for the eastern district of Louisiana.

THE UNITED STATES
vers.
BRIG VOLANT, HER TACKLE, &C., CARGO, &C. } No. 7,776.

To the Honorable E. H. Durell, judge of the district court of the United States for the eastern district of Louisiana:

Philip De Gruchy, of the island of Jersey, intervening for the interest of his principals, the owners of the brig Volant, her tackle, &c., and cargo, against which vessel, &c., and cargo Rufus Waples, esq., the district attorney for the United States in the eastern district of Louisiana has filed

a libel on behalf of the United States, appears before this honorable court and claims all and singular the said brig and cargo for his said principals, and states that he was the master of said brig at time of her seizure, as set forth in the libel aforesaid, duly appointed by the owners aforesaid, and that he is now the lawful agent for the said owners at this port, and the
75 rightful bailee of the said brig Volant and cargo.

Second. The claimant admits that the said brig Volant, with the goods, wares, and merchandise laden therein, have been brought to the port of New Orleans, and are now at said port, within the jurisdiction of this honorable court.

The claimant denies each and every of the allegations contained in the first, second, and fourth sections of said libel.

Wherefore claimant prays that said brig, &c., and cargo, may be restored to this claimant, or to his principals, the said owners, with damages, demurrage, costs, fees, and expenses.

ED. BRIGGS, *Proctor for Claimant.*

Philip De Gruchy, the within-named claimant, being dulys worn, maketh this his test oath, and says that the foregoing claim is true; that the facts and averments embraced in the above claim are the truth in connection with the rights of this deponent and his said principals, the owners of the said brig and cargo; that the said brig Volant, with her tackle, apparel, and furniture and cargo, did belong prior to, and at the time of capture, and still does belong, and if restored will belong to neutral owners.

76 PHILIP DE GRUCHY.

Sworn and subscribed before me this 12th December, 1863.

K. LOEW, *D'y Cl'k.*

Bond for costs, filed December 12th, 1863.

United States of America, eastern district of Louisiana.

Know all men by these presents that we, Philip De Gruchy, claimant, as principal, and Geo. Coppell, of the city of New Orleans, as surety, are held and firmly bound unto the United States, libellant, in the sum of two hundred and fifty dollars, lawful money of the United States of America, for the payment whereof to the said United States or assigns we jointly and severally bind ourselves, our heirs, executors, and administrators, firmly by these presents.

Whereas an admiralty warrant was lately issued out of the honorable the district court of the United States for the eastern district of Louisiana, at the suit of the United States *vers.* the brig Volant and cargo, her
77 tackle, apparel, and furniture, and numbered 7,776 on the docket of the said court, commanding the marshal to seize and take into his possession the said brig and cargo, which has been seized accordingly, the said P. De Gruchy having at the time, and by reason of the signing, sealing, and delivery of these presents, filed a claim to the said vessel, &c., in the clerk's office of the said court, and which claim is now of record:

Now the condition of the above obligation is such that if the said claimant and surety shall satisfy all damages and costs as may be decreed against them, the foregoing obligation is to be void; but otherwise, shall remain in full force and virtue.

PHILIP DE GRUCHY. [SEAL.]
GEO. COPPELL. [SEAL.]

Signed, sealed, and delivered in the presence of—
W. S. JOHNSON.
EDW. BRIGGS.

78 *Cause fixed for trial, from minutes of December 15th.*

UNITED STATES
vers.
BRIG VOLANT AND CARGO. } No. 7,776.

On motion of the district attorney, ordered that this cause be fixed for trial on Friday, the 18th inst., at 10 a. m., and that the claimant be notified thereof.

Notice of trial, issued December 15, 1863.

United States district court, eastern district of Louisiana.

UNITED STATES
vers.
BRIG VOLANT AND CARGO. } No. 7,776.

To Edw. Briggs, esq.:

You are hereby notified that the above cause has been assigned for trial on Friday, the 18th inst., at 10 a. m.

By order of court.

[SEAL.] K. LOEW, *D'y Cl'k.*

N. O., Dec'r 15th, 1863.

Marshal's return.

79 Received 16th December, 1863, and on the same day served a copy of the within notice on E. Briggs, in person.

J. Q. A. HOIT, *Dep. U. S. M.*

Harbor master's bill, filed December 15th, 1864.

NEW ORLEANS, *Dec.* 1, 1863.

Brig Volant to board of harbor masters and masters and wardens, Dr.

To harbor master's dues on 226 tons at 2 ct's per ton.....	$4 52
Port warden's entrance fee.....	5 00
	9 52

Received payment.

Hearing and continuance, from minutes of Dec'r 18th.

UNITED STATES
vers.
BRIG VOLANT AND CARGO. } No. 7,776.

80 This cause came up this day for trial—district attorney for libellant, Edw. Briggs, esq.—for claimants, and the pleadings having been read, on motion of the district attorney, it is ordered that the sealed papers on file be opened.

Whereupon the said attorney offered in evidence the admiralty warrant, monition, and marshal's return, the testimony taken in preparatorio, the prize commissioner's report, and the papers found on board the vessel.

And after hearing argument the district attorney, at his request, is allowed one day to ascertain whether further proof may be had, and leave is granted to him to open such letters as may be required.

Hearing and submission on motion, from minutes of Dec. 19th.

UNITED STATES *vers.* BRIG VOLANT, &C. } 7,776.

This cause came up again before the court—dist. att'y for libellant, Edw. Briggs, for claimant—and after hearing argument upon the application now made by the dist. att'y for further proof, the court took time to advise.

81 *Rule for a survey, from minutes of Dec. 21st, 1863.*

UNITED STATES *vers.* BRIG VOLANT, &C. } No. 7,776.

On motion of Rufus Waples, and on suggesting that the testimony taken in preparatorio in this case does not fully answer interrogatories Nos. 11, 13, and 38, and others, as to the character of the cargo, it is ordered that the claimant show cause why a survey of the contents of the specimen bales of each lot of boxes, and specimens of each kind of lading should not be made under the direction of the prize commissioners, by three persons appointed by said commissioners, the claimants to nominate one, the district att'y another, and the commissioners to nominate the third.

And service being accepted the rule was taken up before the court, district attorney for libellant, Edw. Briggs, esq., for claimant; and after hearing argument of counsel the court took time to advise.

82 *Appointment of att'y for captors, from minutes of Dec'r 21st.*

UNITED STATES *vers.* BRIG VOLANT AND CARGO. } No. 7,776.

It is ordered by the court that D. Augustin, esq., be appointed attorney to represent the captors in this case, and that he be duly notified hereof.

Notice to attorney, from minutes of and issued 21st Dec'r.

United States district court, eastern district of Louisiana.

UNITED STATES *vers.* BRIG VOLANT AND CARGO. } No. 7,776.

To D. Augustin, esq.:

Please to take notice that you have this day been appointed attorney to represent the captors in this case.

By order of court.

[SEAL.] K. LOEW, *D'y Cl'k.*

N. O., Dec'r 21, 1863.

Marshal's return.

83 Received, 22nd December, 1863, and on the same day served a copy of the within notice on D. Augustin, esq., personally.

J. S. BADGER, *Dep'y U. S. Marshal.*

Order for further proof, from minutes of Jan'y 25, 1864.

UNITED STATES
vers.
BRIG VOLANT AND CARGO. } No. 7,776.

In this case, after hearing the argument of the district attorney in support of the application for further proof on behalf of the captors, and that of the proctor for the claimants in opposition thereto, it is ordered by the court that further proof be allowed touching the facts as to whether the vessel was in American waters or not when taken, and as to the character of her cargo upon her voyage to Matamoros, and when taken.

(Copy.)

84 *Documents from st'r Monongahela.*

U. S. STEAM SLOOP MONONGAHELA,
Brazos de Santiago, Texas, Nov'r 6th, 1863.

SIR: I have the honor to present the claim of the officers and crew of this ship who are entitled to share in the prize brig Volant, captured by the Owasco and Virginia, off the Rio Grande, on the 5th inst. This ship was within signal distance, and had an officer and boat's crew on board of the Owasco at the time of the capture.

A prize list has been forwarded to the Navy Department.

Very respectfully, your most ob't servant,
(Signed) J. H. STRONG, *Commander.*

To the Hon. JUDGE OF U. S. DIST. COURT, *New Orleans.*

P. S.—If more proof that this ship was within signal distance is required, all the officers on board are ready to swear to it.

U. S. ST'R MONONGAHELA, *off Mobile Bar, Feb'y 24th, 1864.*

I certify that at the time of the capture of the British brig Volant,
85 Nov. 5th, 1863, by the U. S. st'r Virginia, this vessel was within signal distance of said capture.

FORBES PARKER, *Ass't Paymaster U. S. N.*

The above was sworn to in my presence.

J. H. STRONG, *Commander.*

U. S. S. MONONGAHELA, *off Mobile Bar, Ala., Feb'y 24th, 1864.*

I certify that this ship was within signal distance of the U. S. steamers Virginia and Owasco on the 5th of November, 1863, at the time these vessels captured the English brig Volant, off Rio Grande, Texas.

DAVID KINDLEBERGER, *Surgeon U. S. Navy.*

The above was sworn to in my presence.

J. H. STRONG, *Commander.*

U. S. S. MONONGAHELA, *Mobile Bar, Feb'y 24th, 1864.*

I certify that this vessel was within signal distance of the U. S. st'r Virginia when she captured the British brig Volant, off the Rio Grande, Nov. 5th, 1863.

N. WALTON GRINNELL, *Act. Master U. S. N.*

The above was sworn to in my presence.

J. H. STRONG, *Commander.*

86 *Notices to take testimony, issued March 7th, 1864.*

United States district court, eastern district of Louisiana.

UNITED STATES *vers.* BRIG VOLANT AND CARGO. } No. 7,776.

To Edw. Briggs, R. Waples, and D. Augustin, esqs.:

You are hereby notified that testimony will be taken in the above cause, on Wednesday, 9th inst., at 10 a. m., at the clerk's office, on behalf of libellants.

[SEAL] K. LOEW, *D'y Clk.*

N. O., March 7th, 1864.

Marshal's return.

Received March 7th, 1864, and on the same day and year served copy of the within notice on Messrs. R. Waples, E. Briggs, and D. Augustin, all personally.

N. O., March 7th, 1864.

M. EGAN, *D'y U. S. Marshal.*

87 *Testimony, filed March 9th, 1864.*

UNITED STATES *vers.* BRIG VOLANT AND CARGO. } 7,776.

Testimony taken in presence of dist. att'y represented by C. Kellogg, esq.

N. A. Blume, act. ensign U. S. navy, being duly sworn, says: My name is N. A. Blume, my rank, acting ensign of the U. S. st'r Virginia, Chas. H. Brown commanding, and was at the time of the capture of the brig Volant and cargo. The Volant was captured on the 5th of November, 1863, in the afternoon between 3 and 5 o'clock, by the U. S. st'r Virginia. The Volant was at anchor in American waters at the time of capture; she was a full mile and a half to the northward of the line drawn between American and Mexican waters off the mouth of the river Rio Grande. She was four and one half miles to the northward and eastward of the mouth of the river. From where she lay the mouth of the river bore W SW. ½ S., magnetic bearing. The captain of the Volant told me he had on board a general cargo, amongst which was some military clothing, consisting of soldier's pantaloons, &c. The Volant had been lying there about two days, the captain told me.

88 I have been acting sailing master of the U. S. st'r Virginia for the last six or seven months on the coast of Texas. I am familiar with the coast of Texas and the mouth of the Rio Grande. I have often examined charts of the coast of Texas, and have been running up and down the coast of Texas for the last six or seven months.

N. A. BLUME, *Act. Ensign.*

Notices to take testimony, issued March 17th, 1864.

United States district court, eastern district of Louisiana.

UNITED STATES *vers.* BRIG VOLANT AND CARGO. } No. 7,776.

To Edw. Briggs and D. Augustin, esqs.:

Please to take notice that testimony will be taken in the above case on Friday, the 18th inst., at 5 o'c'k p. m., at the clerk's office.

[SEAL.] K. LOEW, *D'y Clk.*

N. O., March 17th, 1864.

Marshal's return.

89 Received March 17th, 1864, and on the 18th I served a copy of the within notice on Messrs. D. Augustin and Edw Briggs personally.

M. EGAN, *D'y U. S. Marshal.*

N. O., March 18, 1864.

Testimony, filed March 18th, 1864.

Testimony taken March 18th, 1864, at 6 p. m. Present: District attorney, and D. Augustin; absent: Edw. Briggs.

N. A. Blume sworn, says he is acting ensign of the U. S. st'r Virginia, which captured the Volant on 5th November last. Chas. H. Brown was the commander of the Virginia. The Volant was at anchor at about 4½ miles from the mouth of the Rio Grande. I went aboard the Volante the same day of the capture. She was in American waters then. I took her bearings; she was from 1½ to 1¾ north of the division line. The Volant was east of the Dashing Wave. She was laying northeast ¾ east, about ½ a mile from the Dashing Wave. Witness marks upon Chart K the exact position of the Volante at the time of her capture, and he arrives at the conclusion from his
90 observations made at the time, and with the aid of the ruler and compass now used by him on the chart, and according to the bearings taken at the time. In a conversation with the captain of the Volant I heard he had some military clothing on board. We saw her at anchor at the same place a day or two previous to the capture. The mouth of the Rio Grande could be plainly seen by the Volante, from her anchorage. She could not see that she was in American waters without taking the bearings. The mouth of the Rio Grande could be perceived easily by the breakers and by the lighters going in and out continually. The cargo of the Volant was a general cargo. Among other things, she had grey military clothing. I cannot state what else she had. I have seen some bales, and some barrels containing whiskey and brandy. She was inward bound, and had her inward cargo trying to run the blockade, and under that impression we took her; she made no resistance. No war vessel was in company with the Virginia. The Monongahela lay at anchor some 11 miles off. I could not distinguish her colors or signals. The figure 3 appears in the circle of the spot on the chart where the Volante lay at the time of the capture.

N. A. BLUME, *Act. Ensign.*

91 (Here follows map, page 90.)

J. H. Rogers, sworn for captors, says: I am act. ensign of U. S. str. Virginia. The Volant was captured by said vessel. The Owasco joined in the capture of the Volante. The Monongahela was within 11 miles from the place of the capture. She could been seen but her signals could not be distinguished, and there was no other U. S. war vessel within signal distance at the time of the capture.

The Virginia had reported to Commodore Bell previous to the capture. I don't know whether the Owasco had likewise reported. Commodore Bell was then in command of the western gulf squadron.

J. H. ROGERS, *Act. Ensign U. S N.*

92 *Order cause fixed for trial, from minutes of April 2nd, '64.*

UNITED STATES
vers.
BRIG VOLANT AND CARGO } No. 7,776.

By consent of the district attorney and the proctor for claimants, it is ordered that this cause be fixed for trial on Saturday, 9th inst., at 10 a. m

Notice of trial, issued April 2nd, 1864.

United States, district court, eastern district of Louisiana.

UNITED STATES
vers.
BRIG VOLANT AND CARGO. } No. 7,776.

To D. Augustin, esq.:

By consent of the district attorney and the proctor for claimants, it is ordered that this cause be fixed for trial on Saturday, 9th inst., at 10 a. m.

By order of court.

[SEAL.] K. LOEW, *D'y Clk.*

N. O., Apr. 2nd, 1864.

Marshal's return.

Received April 2nd, 1864, and on the 4th April, 1864, served a copy
93 of the within notice of trial on D. Augustin, esq., personally.

M. EGAN, *D'y U. S. Marshal.*

N. O., Ap'l 4, 1864.

Hearing and continuance, from minutes of April 7th, 1864.

UNITED STATES
vers.
BRIG VOLANT AND CARGO. } No. 7,776.

This cause came up for trial by consent of parties—district attorney for libellant; Edw. Briggs and Hon. Wm. Marvin for claimant—when, after hearing the evidence taken under the order for further proof, and argument on behalf of the claimant, the cause was continued till to-morrow, 8th inst., at 10 a. m.

94 *Hearing and submission, from minutes of April 8th, 1864.*

UNITED STATES
vers.
BRIG VOLANTE AND CARGO. } No. 7,776.

This cause came up agreeably to adjournment, dist. att'y for libellant, Edw. Briggs for claimant; and after hearing further argument the court took time to advise.

Judgment of condemnation, rendered June 11th, 1864.

UNITED STATES
vers.
BRIG VOLANT AND CARGO. } No. 7,776.

For the reasons now orally assigned by the court, and which shall be reduced to writing hereafter, it is ordered, adjudged, and decreed that the brig Volant, her tackle, apparel, and cargo, be, and the same are hereby, condemned as lawful prize of war; that after ten days' advertisement they be sold
95 by the marshal, and the proceeds deposited in the First National Bank of New Orleans, and there held subject to the further order of court, reserving for further action the question of how many and what public vessels are entitled to share in the prize, and the relative force of the vessels; and to that end the prize commissioners shall take the testimony of such witnesses as may be necessary.

Judgment rendered June 11th, 1864. Judgment signed June 16th, 1864.

E. H. DURELL, *Judge.*

Order to deliver private articles, from minutes of June 16th, 1864.

UNITED STATES
vers.
BRIG VOLANT AND CARGO. } No. 7,776.

On motion of Edw. Briggs, esq., proctor for the captain of the vessel, and with the consent of the district attorney, it is ordered that the marshal do release and deliver to the said captain the following articles, being the
96 private property of said captain, to wit, one anchroid barometer, one quadrant, one writing desk, one chronometer, and charts.

Marshal's return.

Received June 17th, 1864, and on the 18th June, 1864, delivered to the captain the articles enumerated in this order; took his receipt therefor, under the order of court, to which reference is respectfully made.

JAMES GRAHAM, *U. S. Marshal.*

Received from James Graham, the U. S. marshal, east. dist. of La., the articles specified in the above order, this 18th day of June, '64.

PHILIP DE GRUCHY.

Petition for appeal, filed July 11th, 1864.

U. S. district court, eastern dist. of Louisiana.

UNITED STATES
vers.
BRIG VOLANT AND CARGO. } No. 7,776.

To the Hon. Edward H. Durell, judge of the district court of the United States for the eastern district of Louisiana:

97 The petition of Philip De Gruchy, claimant, on behalf of the owners of both vessel and cargo, respectfully represents that he is aggrieved by the decree rendered herein, on the 16th day of June, 1864, and is advised that their is error therein to his prejudice.

Wherefore he prays that an appeal be allowed him therefrom to the next term of the Supreme Court of the United States, and that the same may operate as a supersedeas, upon his giving bond and security, conditioned according to law, in such sum as the court may direct.

EDW. BRIGGS, *Proctor.*

Motion for appeal and order allowing same, from minutes of July 11th, 1864.

UNITED STATES
vers.
BRIG VOLANT AND CARGO. } No. 7,776.

On motion of Edward Briggs, proctor for claimant, and on his presenting a petition praying an appeal from the decree herein rendered on the
98 16th June, 1864, to the next term of the Supreme Court of the United States, it is ordered that the same be allowed as prayed for, returnable to said Supreme Court the first Monday of December next, upon his giving bond with good and solvent security, conditioned as the law directs.

Appeal bond, filed July 11th, 1864.

UNITED STATES OF AMERICA, *Eastern District of Louisiana:*

District court of the United States, in admiralty.

UNITED STATES *vers.* BRIG VOLANT AND CARGO. } No. 7,776. Appeal bond.

Know all men by these presents that we, Philip De Gruchy, as prin-
99 pal, and E. J. Forstall and George Coppell, as sureties, are held and firmly bound unto the United States of America in the sum of five hundred dollars, to be paid to the said United States, for the payment whereof, well and truly to be made in lawful money of the United States of America, we bind ourselves and each of us, our and each of our heirs, executors, administrators, jointly and severally, firmly by these presents. Sealed with our seals, and dated at New Orleans, the 11th day of July, 1864.

Whereas the above-named Philip De Gruchy has appealed to the next term of the Supreme Court of the United States, to be held in the city of Washington, D. C., on the first Monday of December next, 1864, from a final judgment of the district court of the United States for the eastern district of Louisiana, rendered against him on the 16th of June, 1864, in the above-entitled cause:

100 Now, therefore, the condition of this obligation is such that if the above-named appellant shall prosecute his appeal to effect, and answer all damages and costs, and satisfy whatever judgment may be rendered against him, if he fails to make his appeal good, then this obligation to be void; otherwise, the same shall be and remain in full force and effect.

PHILIP DE GRUCHY. [SEAL.]
EDW. J. FORSTALL. [SEAL.]
GEORGE COPPELL. [SEAL.]

Signed, sealed, and delivered in presence of—
K. LOEW, *D'y Clk.*

101 *Citation of appeal.*

United States district court, eastern district of Louisiana.

UNITED STATES *vs.* BRIG VOLANT AND CARGO. } No. 7,776.

The United States of America to the United States, libellants, greeting:

You are hereby cited and admonished to be and appear before the Supreme Court of the United States, at its next term, to be holden in the city of Washington, D. C., on the 1st Monday of December next, to answer the appeal taken by the claimant of the vessel and cargo in this cause, and that you show cause then and there, if any there be, why the judgment rendered against the said claimant on 16th June, 1864, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable E. H. Durell, judge, this 11th day of July, in the year of our Lord 1864, and the 89th of the American independence.

E. H. DURELL, *Judge.*

102 *Marshal's return.*

And on the same day of receipt hereof I served in person a copy of this citation of appeal on Rufus Waples, esq., United States district attorney, in person, at his office, 18 Royal st., in this city of New Orleans, July 14th, 1864.

D. CHRISTIE, *Deputy U. S. Marshal.*

Rec'd July 14th, 1864.

103 *Citation of appeal.*

United States district court, eastern district of Louisiana.

UNITED STATES
vs.
BRIG VOLANT AND CARGO. } No. 7,776.

The United States of America to Ch's H. Brown, capt. of st'r Virginia, captor in this case, greeting:

You are hereby cited and admonished to be and appear before the Supreme Court of the United States at its next term, to be holden in the city of Washington, D. C., on the 1st Monday of Dec'r next, to answer the appeal taken by the claimant of vessel and cargo in this cause, and that you show cause then and there, if any there be, why the judgment rendered against the said claimant on 16th June, 1864, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable E. H. Durell, judge, this 11th day of July, in the year of our Lord 1864, and the 89th of the American independence.

E. H. DURELL, *Judge.*

104 *Marshal's return.*

And on the same day I served a copy of this citation of appeal on Capt. Chas. H. Brown, on board of the U. S. naval steamship Virginia, then lying in the waters of the Mississippi and adjoining the wharf at the repairing shop, foot of St. Joseph st, and on the said Capt. Chas. H. Brown in person, this 14th day of July, 1864.

D. CHRISTIE, *Deputy U. S. Marshal.*

Received July 14th, 1864.

105 *Report of attorney for captors, filed July 20th, 1864.*

UNITED STATES
vers.
BRIG VOLANT AND CARGO. } No. 7,776.

To the Honorable Edward H. Durell, judge of the district court of the United States for the eastern district of Louisiana:

The report of D. Augustin, attorney for captors, in regard to the respective shares to which the captors are entitled, and the armed vessels which were within signal distance, respectfully represents:

1. That it is evident from the testimony on record that on the 5th November, 1863, when the U. S. st'r Virginia captured the brig Volant, the said brig had no arms on board, made no resistance, and was of a force inferior to the U. S. st'r Virginia.

2. That in regard to the claims of the Owasco and the Monongahela to shares in the capture, the evidence is as follows:

A letter in the record, dated 5th Nov., 1863, from Captain Charles
106 H. Brown, commander of the U. S. steamer Virginia, addressed to the court, stating "The U. S. sloop-of-war Monongahela and the U. S. gunboat Owasco were in sight at the time of the capture."

The testimony of N. A. Blume and of J. H. Rogers, both ensigns on board the steamer Virginia, shows that the U. S. st'r Owasco was within signal distance at the time of the capture, "and that no other United States vessel was within signal distance at the time."

This latter part of the testimony of the two ensigns of the Virginia would tend to negative the claim of the Monongahela. But the testimony is merely negative, and is overcome by the affirmative testimony of four officers of the U. S. navy, who affirm under oath that the Monongahela was within signal distance at the time of the capture, viz: The affidavit on record of J. H Strong, U. S. N.; the affidavit on record of David Kindleberger, U. S. N.; the affidavit on record of M. Walton Grinnell, U. S. N.; the affidavit on record of Forbes Parker, U. S. N.

These affidavits, together with the admission made by the captain of the Virginia above stated, are conclusive of the right of the Monongahela
107 and Owasco to their respective shares in the capture.

It is also in proof that the Virginia had reported to Commodore Bell, commander of the naval station at New Orleans.

Wherefore the undersigned, attorney for captors, prays that this honorable court may order the proceeds of the sale of the prize brig Volant, her tackle, apparel, and her cargo be distributed as follows, to wit:

1st. The United States government to be entitled to one half.

2d. That the other half be distributed as pointed out by law, between the officers and crew of the U. S. st'r Virginia, the captor, and the U. S. sloop-of-war Monongahela and steamer Owasco, as arising by their presence within signal distance, and Commodore Bell, naval commander at New Orleans.

Respectfully submitted.

D. AUGUSTIN, *Att'y for Captors.*

108 *Venditioni exponas, issued July 12th and returned July 29th*, 1864.

United States district court, eastern district of Louisiana.

The President of the United States of America to the marshal of the eastern district of Louisiana, or either of his deputies, greeting:

Whereas at a district court of the United States, holden at New Orleans, for and within said district, on the 11th day of June, A. D. 1864, the brig Volant, her tackle and cargo, were, after proclamation and due proceedings, decreed forfeit and ordered to be sold at public auction: These are, therefore, to command you to sell to the highest bidder, at public auction, at the U. S. marshal's warehouse within said district, on the twenty-fifth day of July, 1864, at 12 o'clock m, the said brig and cargo, first giving ten days' notice, at least, of the time and place of sale, by advertising the same
109 in the N. O. Times, one of the newspapers printed at New Orleans, and by proclamation in the usual form on the day of sale, the money arising from the sale to be deposited in the 1st National Bank of New Orleans, to be disposed of as the law in this case directs. And make due return hereof with your doings herein.

Witness the Honorable E. H. Durell, at New Orleans, this 12th day of July, A. D. 1864, and 89th year of the independence of the United States of America.

[SEAL.] K. LOEW, *D'y Clerk.*

Marshal's return.

United States of America, eastern district of Louisiana.

NEW ORLEANS, *July 29th*, 1864.

Pursuant to this precept, I have caused the brig Volant, tackle, &c., and cargo, within named, to be sold by public auction and to the highest bidder, at the U. S. marshal's warehouse, 38 Old Levee street, on the day, hour, and place therein directed, having given ten days' previous notice of the
110 time, place, and manner of the sale in the New Orleans Times, one of the newspapers printed in the city of New Orleans, and by the

crier on the day of sale, and at such sale the purchasers were as appears from the proces verbal of G. A. Hall, U. S. prize auctioneer, hereto annexed and made part of this return.

Proces verbal.

I, G. A. Hall, U. S. prize auctioneer, do hereby certify that under and by virtue of a writ of venditioni exponas of the hon. district court of the United States for the eastern district of Louisiana, directed to the U. S. marshal for the district aforesaid, in suit by the United States *vers.* the brig Volant, her tackle, apparel, and furniture and cargo, No. 7,776 of the said court, I offered the brig Volant, her tackle, apparel, furniture, and cargo for sale at public auction on Monday, the 25th day of July, 1864, at 12 o'clock m., at the United States marshal's warehouse, No. 38 and 40 Old Levee street, at which said sale the same was sold for cash at the prices, to the purchasers, and in the lots as hereinafter set forth, to wit:

111	H. Samory, 1,500 cases brandy, (Renelle & Co.,) at $18 25	$27, 375 00
	J. Thomas, 17 cases brandy, (Renelle & Co.,) at $18 25	310 25
	Prudhomme, 166 cases brandy, (Le Roy,) at $20	3, 320 00
	F. Mandall, 50 cases brandy, (John Richards,) at $14 50	725 00
	Cusachs & Ogden, 432 cases brandy, (John Richards,) at $13	5, 616 00
	J. H. Heald, 79 bales blankets, 3,958 pair, $8 25	32, 653 50
	H. Samory, 5 bales mixed blue cloth, 2,124¼, at $3 25	6, 903 81
	Blum & Frank, 10 bales blue cloth, 3,859 y'ds, at 20⅝ bits	9, 948 99
	Busachs & Ogden, 32 cases woollen socks, 2,570 doz., $4 25	10, 922 50
	Vose & West, 164 cases shoes, 11,892 pairs, 80c	9, 513 60
	G. Grande, 1 coil rope, 264 ft., 24 c	63 36
	1 ditto, 30, 24 c	7 20
	1 ditto, 57, 24 c	13 11
	Lapene & Terre, 3 kegs vinegar, at 2 50	7 50
	G. Grande, 1 keg lamp oil	18 50
	2 cans paint oil, 14 50	29 00
	C. Fox, 1 can currants	2 50
	1 can barley	1 75
112	6 cans meats, at 87½	5 25
	Panola, 1 bell	1 50
	Keen, 1 pair scales	4 50
	Lapene & Terre, 1 medicine chest	39 00
	Christie, 3 barrels beef, at 15 50	46 50
	Valentia, 3 casks bread, $18	54 00
	5 bbls. bread, 2 25	11 25
	1 bbl. peas	9 00
	1 keg pitch	9 00
	1 lot rope	7 25
	1 lot twine	14 50
	G. Grande, 1 lot canvas	12 50
	Valentia, 1 lot brushes	3 75
	G. Grande, the brig Volant, her tackle, apparel, furniture, &c.	17, 000 00
		124, 649 57

New Orleans, July 25th, 1864.

G. A. HALL, *U. S. Prize Auctioneer.*

JAS. GRAHAM, Esq., *U. S. Marshal, East. D. of La.*

United States marshal's sales.

In the United States district court, eastern district of Louisiana.

UNITED STATES
vs.
BRIG VOLANTE, TACKLE, ETC., AND CARGO. } No. 7,776.

By virtue of a writ of venditioni exponas to me directed in the above-entitled suit, I will proceed to sell to the highest bidder, on Monday, the 25th day of July, 1864, at twelve (12) o'clock m., at the United States marshal's warehouse, Nos. 38 and 40 Old Levee street, the brig Volante, her tackle, apparel, and furniture and her cargo, consisting in assorted merchandise, such as liquors, blankets, etc.

Terms, cash at time of adjudication, in U. S. treasury notes.

United States marshal's office, New Orleans, 12th day of July, 1864.

JAMES GRAHAM, *U. S. Marshal.*

Whereby the gross sales amounted to one hundred and twenty-four
113 thousand six hundred and forty-nine dollars 57 cents, which I pay over to the First National Bank in New Orleans aforesaid, to be disposed of as the court directs.

Attest: JAS. GRAHAM, *Marshal.*

Received from James Graham, United States marshal, one hundred and twenty-four thousand six hundred and forty-nine dollars 57 cents, being, as he saith, the proceeds of the aforegoing sale, the monies to be disposed of as the court directs, and for which I have signed duplicate receipts.

New Orleans, July 29th, 1864.

H. C. GRAHAM, *P't.*

Auctioneer's bill, filed July 29th, 1864.

Suit No. 7,776.

The United States to G. A. Hall, U. S. P. A., Dr.

To advertising in N. O. Era	$16 50
N. O. Times	15 00
True Delta	22 50
To commission on sale brig Volant	25 00
cargo, 1 per cent. on $10,000	100 00
cargo, 4-10 per cent. on $97,649 57-100	390 59
	569 59

N. O., July 25th, 1864.

114 *Appraisement of vessel, filed July 29th, 1864.*

We, the undersigned, duly appointed appraisers, have examined the British brig Volant, from London, and are of opinion that the actual value of the said brig is, at this time, and we do therefore appraise the same as follows: After a careful examination of the British brig Volant, now lying at post 28, first district, we find she is 108 feet 4 inches length on deck, 25 feet 9 inches breadth of beam, 12 feet 9 inches depth of hold, and is 269 tons burden; that she was built at Bathurst, Nova Scotia, in the year 1860. She has a single deck, and full set of beams below, a hacmetac top, and hardwood bottom, is copper fastened, and was coppered to the bends in Boston, in October, 1863, and rated at the Lloyds; is well bound with iron knees, and heavy bilge straps, and well fastened, and sound and dry in every respect. She has 2

boats, 4 anchors, 2 chain cables, 1 hawser, 1 hoisting wrench, 2 harness casks, 2 cast-iron pumps, 1 full suit of sails, 2 square coursers; (sails can be examined at warehouse;) is well found, draws 7½ feet aft and 6½ feet
115 forward, has on board about 40 tons of stone ballast and 2 tons of coal; delivered her cargo all in fine order, and we value her at this time at nineteen thousand dollars, ($19,000 00.)

N. O., July 25th, 1864,

H. G. HEARTT,
RICH'D SWAIN,
U. S. Appraisers to the U. S. Prize Commissioners.

To JAMES GRAHAM, Esq., *U. S. Marshal.*

Appraisement on cargo, filed July 29th, 1864.

NEW ORLEANS, *July 25th*, 1864.

SIR: We, the undersigned, duly appointed appraisers, have examined the cargo of the British brig Volant, captured in the Gulf of Mexico, from London, and are of opinion that the actual market value or wholesale prices of the said goods are and we do therefore appraise the same as follows:

N (P)	251–329, 79 bales grey and brown mixed blankets, 50 pair per bale, 3,954 pairs, at $6 00	$23,724 00
(L)	1,564 cases Cognac brandy, p'r doz. 18 00	28,152 00
S	500 cases Cognac brandy, John Richards, per doz. 16 00	8,000 00
	C L J, 194 cases Cognac brandy, p'r doz. 16 00	3,104 00
116	(B) 2 bales mixed cloth, 752 y'ds, 2 50 p'r y'd	1,880 00
	10 bales mixed cloth, 3,857¾ y'ds, 2 50 p'r y'd	9,644 37½
	3 bales mixed cloth, 1,372¼ y'ds, 2 50	3,460 62½
(B)	31 cases, 80 doz. each, 2,480 p'r woolen stockings, 6 p'r p'r	14,880 00
	8 cases, 90 doz. each, 90 doz. p'r woolen stockings, 6 p'r p'r	540 00
M J S,	20 cases, 75 pair each, shoes, 1,500 pair, at 1 00	1,500 00
	36 " 80 " " 2,880 pair, at 1 00	2,880 00
	2 " 84 " " 168 pair, at 1 00	168 00
	68 " 75 " " 5,100 pair, at 1 00	5,100 00
H B,	30 " 60 } " " 1,855 pair, at 1 00	1,855 00
	1 " 55 }	
	1 " 60 " " 60 pair, at 1 00	60 00
	1 " 40 " " 40 pair, at 1 00	40 00
S S,	4 " 60 } " " 340 pair, at 1 00	340 00
	1 " 100 }	
		105,328 00

H. G. HEARTT,
RICH'D SWAIN,
U. S. Appraisers to the U. S. Prize Commissioners.

To JAMES GRAHAM, Esq., *U. S. Marshal.*

117 *Appraisers' bill, filed July 29th, 1864.*

In the matter of the brig Volant and cargo to appraiser's office, DR.

July 25th, 1864. For appraisement of cargo brig Volant, $107,649 57, at 1 per cent $1,076 49

Brought forward	$1,076 49
July 25th, 1864. For labor paid and for arranging, sampling invoices, numbering and classification of cargo, at ½ per cent.....	538 24
	1,614 73

"No charge for superintending sales" and canvassing for purchasers.

Appraisers' bill, filed July 29th, 1864.

In the matter of the brig Volant and cargo to appraiser's office, DR.

July 25th, 1864. For appraisement Br. brig Volant, $17,000.... $170 00

118 *Marshal's bill of costs, &c., filed July 29th, 1864.*

District court of the United States, eastern district of Louisiana.

UNITED STATES *vers.* BRIG VOLANT AND CARGO. } No. 7,776. Certified statement of marshal's fees.

U. S. MARSHAL'S OFFICE, *New Orleans, July 29th, 1864.*

		Fees.	Disbursements.
Nov'r 21.	Order of seizure, $2; attending prize com'r's court, $4 00	6 00	
	Paid for bringing instruments in safety to office		50
24.	Admiralty warrant, libel, and order	6 00	
28.	Published monition in N. O. Times		12 00
	Engrossing copy of monition for publication	1 00	
	Attendance of deputy on unbending sales	5 00	
Dec'r 16.	Notice of trial, $2; 21st, order to produce log-book, $2 00	4 00	
22.	Notice appointing att'y for captors	2 00	
23.	Subpœna and expenses, $2 00; notice to Capt. Woolsey and expenses, $2 00	4 00	
March 7.	3 notices, testim'y, $1 50; 17, 2 ditto, $1 00	2 50	
Ap'l 4.	Notice of trial.	2 00	
May 28.	Bill of Keen & Stanley, labor in unbending sails		9 00
	Bill of L. Frigeris, rating chronometer		2 50
	Bill of towage of steamer Neaffie		223 00
31.	Bill of custody of marshal, Nov. 20 to date, 33 days, at $2 50		57 50
June 17.	Bill of order of court to restore sundries to captain	2 00	
July 12.	Venditi. exp., $2 00; en'g copy for publication	2 50	
	Published notice of sale in N. O. Times		6 00
14.	2 copies, citation of appeal to Supreme Court	4 00	
119 July 16.	Notifying G. A. Hall to sell at auction	1 00	
15, 16, 18.	Attendance of deputy discharging cargo	15 00	
	Bill of John Christie, discharging clerk		15 00
	Bill of Keen & Stanley, stevedores, dich'g cargo		177 85
	Bill of James Murphy, hauling cargo		253 50
	Taking and recording inventory of cargo, &c	7 50	
25.	Preparing for sale, attendance, and delivery	15 00	
	Storage of cargo, $20 00; labor on cargo, $55 00		75 00
	Commissions on sale, $250 00; com's on disbursement, $29 15	279 15	
26.	Marshal's custody from Dec'r 12th to date, 227 days		567 50
	Notice to keeper to deliver vessel	1 00	
29.	Return on vend. exponas	1 00	
	3 proclamations at sale	90	
		361 55	1,399 35

Fees	$361 55
Disbursements	1,399 35
Total costs and charges	1,760 90

120 *Taxation of costs, from minutes of July 30th, 1864.*

UNITED STATES *vers.* BRIG VOLANT AND CARGO. } No. 7,776.

It is ordered, adjudged, and decreed that the costs, fees, and charges in this case be taxed, allowed, and paid out of the fund on deposit in the First National Bank of New Orleans, as follows, viz:

District attorney, 2 per cent	$2,492 00
Marshal	1,760 90
Clerk	75 45
Harbor masters	9 52
Auct'r, G. A. Hall	569 59
Appraisers, Heartt & Swain, on cargo, 1½ per cent	1,614 73
Do. do. on vessel	170 00
Prize commissioners	300 00
D. Augustin, att'y for captors	1,246 49
Reserved expenses	50 00
	8,288 68

121 *Agreement relative to appeal, filed September 28th, 1864.*

UNITED STATES *vers.* BRIG VOLANT AND CARGO. } No. 7,776.

It is hereby agreed that the log and cargo books of the brig Volant be sent up to the appellate court in original, with the transcript of appeal.

N. O., Sept'r 28th, 1864.

EDWARD BRIGGS, *Proctor for Claimants.*
RUFUS WAPLES, *U. S. Dist. Att'y.*

122 United States district court, eastern district of Louisiana.

I, Kilian Loew, deputy clerk of said court, do certify that the foregoing 121 pages contain a full, complete, and correct transcript of the original record and of all the proceedings had, documents filed, and evidence adduced at the trial of the case of the United States *vs.* the brig Volant and cargo, No. 7,776 of the docket, with the exception of the log and cargo books of the vessel, which, under the agreement of parties, go up to the appellate court in original.

In testimony whereof, I hereto set my hand and the seal of our court, at New Orleans, this 5th day of October, A. D. 1864, and the 89th year of the American independence.

[SEAL.] K. LOEW, *D'y Clk.*

Filed 12th December, 1864.

Supreme Court of the United States.

No. 138.

THE UNITED STATES

vs.

THE BRIG VOLANT AND CARGO, PHILIP DE GRUCHY,
MASTER AND CLAIMANT.

BRIEF FOR CLAIMANT.

WILLIAM MARVIN, *Counsel for Claimant.*

New-York:
JOHN W. AMERMAN, LAW PRINTER,
No. 47 CEDAR STREET.

1867.

Supreme Court of the United States.

THE UNITED STATES

vs.

The Brig VOLANT and Cargo, PHILIP DE GRUCHY, Master and Claimant.

No. 138.

This vessel, owned by Matthew Gallichan & Co., of the Island of Jersey, commanded by Philip De Gruchy, of the same place, sailed under charter in August, 1863, from London, with a general cargo for Matamoras, and was captured by the United States steamer Virginia, soon after her arrival off the mouth of the Rio Grande, while lying at anchor, with her cargo still on board, and before the captain had communicated with the shore, and was carried to New-Orleans for adjudication.

The certificate of British registry is found on top page 13 of the record, the charter-party at page 19, the manifest of the cargo and bill of lading on pages 12 and 18, and letter of instructions from the charterers to the captain, page 11, at the bottom of the page.

It appears from the bill of lading that the cargo was shipped by James J. Bennet & Wake, of London, as agents, and consigned to Messrs. Wolf & Hildeshein, of Matamoras, which is a branch house of the Nathans.

It also appears that James J. Bennet & Wake, who are ship-brokers, doing business in London, chartered the vessel for the voyage, and that N. P. & H. Nathan, of Leeds, loaded the ship with their goods, shipped on their account; the invoices of which, six in number, are found on top pages

21 to 28, inclusive. It seems, too, that Bennet & Wake acted as agents for the Nathans in shipping the goods on board, and in taking the bill of lading in their name as agents. N. P. & H. Nathan are an old mercantile firm, whose principal house of business is in Leeds, in England, but they have numerous branch houses, in which they are interested, established in the principal cities of Europe, the United States and South America. Messrs. Wolf & Hildeshein is a branch house located at Matamoras.

The master claims the vessel and cargo, *virtute officii*, and swears "that the said brig Volant, with her tackle, apparel and furniture and cargo, did belong, prior to and at the time of capture, and still does belong, and, if restored, will belong to neutral owners." See claim and oath, pages 28–9.

The captain deposes, (Int. 11, page 5,) "The Volant was bound for Matamoras direct, and was in the harbor at anchor when captured. Had not yet discharged, nor had we had any communion whatever with the shore. The vessel left London for Matamoras, and was to return to Queenstown or Falmouth for orders. We had a general cargo when we left London, and we had the same cargo on board when taken.

"The vessel was chartered in London by Bennet & Wake, through my brokers, Seymour, Peacock & Co., for the voyage to Matamoras. The cargo was put on board in August of the present year. We had on board no goods contraband of war. I do not know what is called contraband here. According to my charter, I was to take on board no powder, balls, shot or shell, saltpetre or any thing of that kind, and I had on board none such." "The vessel carried a general cargo consisting of brandy and baled goods, and cases which I supposed contained stores." "The cargo was consigned to Wolf & Hildeshein, Matamoras. In case we had discharged our cargo at Matamoras it would have been immediately in charge of the consignees, Messrs. Wolf & Hildeshein. I believe that if the vessel and cargo are restored they will belong to the persons now asserted to be the owners, and to none others." "There was but one bill of lading signed for

the goods seized on board the vessel; it is entirely true and fair, and was taken from me by the prize master."

The letter of instruction from James Bennet & Wake to the captain, (page 11,) instructs him to proceed with all possible despatch to Matamoras, and on arrival there to place his vessel in the hands of Messrs. Wolf & Hildeshein, merchants, of that port, to whom the whole of your cargo is consigned. Their letter to Wolf & Hildeshein is found on page 19, and encloses copy of charter-party, invoices and bills of lading, and Mexican consular certificates.

The court below ordered further proof to be taken on the question, whether the vessel was in American waters or not when captured, and as to the character of her cargo upon her voyage to Matamoras and when taken. See the order, page 32.

The further proof taken, the *ex parte* deposition of N. A. Blume, pages 33 and 34, states that the vessel was captured in American waters.

The court, thereupon, decreed a condemnation of vessel and cargo, and the claimant appealed.

Point I.

The *ex parte* deposition of N. A. Blume is inadmissible evidence. But if regularly taken, then we say that anchoring off the mouth of the Rio Grande in American waters is, in itself, and unaccompanied by any purpose to break blockade or to carry contraband of war to the enemy, an innocent act, and constitutes no cause for forfeiture. Such purpose is not shown by the fact of anchoring the vessel where it was anchored. The Schooner Fame, 3 *Mason*, 147; 5 *Wheaton*, 374.

Point II.

Breaking or attempting to break blockade or to carry contraband of war to the enemy is a crime, an offence against international law, consisting of intention and act, and is not to be presumed, but to be proved like all other crimes and offences.

Point III.

The blockade, if any in fact existed, of the mouth of the Rio Grande, a conterminous river between neutral Mexico and belligerent Texas, if not an absolute nullity, ought not to be enforced in such a manner as to prevent the free and common use of its waters on either side of the mouth of the river by all neutral vessels trading with Mexico, either to navigate or anchor in. The government did not consider the mouth of the Rio Grande to be blockaded so as to prevent trade by our own people or by neutrals with Mexico. On the contrary, vessels of all nations during the whole period of the war were cleared from New-York and other United States ports for Matamoras, and large quantities of cotton were imported from Matamoras into the United States.

To say that the port or the waters conducting to the port of Matamoras was blockaded when the Sir William Peel, the Science and forty or fifty other vessels were loading and unloading every day in the roadstead, is an absurdity.

Point IV.

The charter-party, bills of lading, invoices, manifest of the cargo, clearance, Mexican consul's certificate, and depositions of master and mate, all show that the vessel and cargo were neutral property, and that the cargo was destined to Matamoras, and not elsewhere. There is no evidence of the existence of any enemy interest in either the ship or cargo, and the court will not presume such interest to exist in a trade between one neutral port and another. The bills of lading and invoices show the property to be neutral, and the master, in his claim, swears it was neutral, and if restored will belong to neutral owners.

The decree of the court below ought to be reversed, and the ship and cargo restored, with costs and damages, to be paid by the captors, and the cause remanded to the court below to ascertain and assess the damages.

WM. MARVIN,
Counsel and Advocate.

In the Supreme Court of the United States.

DECEMBER TERM, 1866.

BRIG VOLANT AND CARGO
vs.
THE UNITED STATES. } No. 138.

Appeals from the District Court for the eastern district of Louisiana.

BRIEF OF UNITED STATES.

HENRY STANBERY,
J. HUBLEY ASHTON,
For United States.
C. EAMES,
For captors.

In the Supreme Court of the United States.

DECEMBER TERM, 1866.

BRIG VOLANT AND CARGO
vs.
UNITED STATES. } No. 138.

Appeal from the district court of the United States for the eastern district of Louisiana.

THE CASE.

This vessel and cargo were captured while lying at anchor off the mouth of the Rio Grande on November 5, 1863. She had on board, and was about discharging, a cargo of *boots*, *blankets*, *brandy*, and *cloth*, valued at $105,328, shipped at London and consigned by the papers to Wolf & Hildesheim, Matamoras.

As usual in this class of cases, De Gruchy, the master, filed a claim for the vessel and cargo on behalf of their respective owners, not named, and who never appeared otherwise in the cause.

The court condemned vessel and cargo as lawful prize of war. (Rec., p. 35.)

THE FACTS.

The Volant was British owned, and was chartered by BENNETT & WAKE, of London, (the charterers of the *Science* and the agents who concocted the voyage of the *Peterhoff*,) on August 7, 1863, for a voyage to Matamoras and back to England. (Rec., p. 19.) She was loaded in the same month, with the cargo mentioned in the manifest, (Rec., pp. 12, 18,) and consisting of mixed blue cloth, (for confederate uniforms, Rec., p. 11,) boots and socks, blankets and brandy in large quantities.

(Rec., p. 40.) One *truss* is also mentioned as being on board. (Rec., p. 12.) This cargo, shipped in the bill of lading by Bennett & Wake, as "agents," is consigned in the invoices by N. P. & H. NATHANS & Co., of Leeds, on their account and risk, as expressed, to Messrs. Wolf & Hildeshein, Matamoras. (Rec., p. 21.) Bennett & Wake wrote the letter to consignees, a circumstance which shows that the consignment was probably not on account of Nathans & Co. (Rec., p. 19.) It appears by a letter on board that the Mr. Bennett of this firm was personally at Matamoras in August, 1863, engaged in business connected with the "*Matamoras*" trade of his house. (Rec., p. 20.) There is an allusion to the *Peterhoff* in that letter which may be intelligible on looking into the article in the *London Times* newspaper to which it refers.

This consignee's letter contains no instructions as to the disposition of the cargo after it should reach Matamoras, and gives no clue to the nature or object of the intended transaction. One bill of lading covered the entire cargo. (Rec., p. 12.)

The master gives no account of the ownership, character, or destination of the cargo. (Rec., p. 5.) The other examinants are equally reticent on these points. The master declares there were no *contraband* articles on board, but at the same time declares his ignorance of "what is called contraband here," and seems to fancy that powder, balls, shells, and the like are alone of that character. (Rec., p. 5.)

POINTS.

FIRST. No sane mind can for a moment entertain a doubt that this cargo was on its way to Texas and the rebel region beyond, *via* Matamoras, if, indeed, it was intended that it should pass through Matamoras at all.

The court will say, as it said by the opinion of the Chief Justice in the *Springbok*: "*We cannot look at such a cargo as this and doubt that a considerable portion of it was going to the rebel States, where alone it could be used; nor can we doubt that the whole cargo had one destination.*"

SECOND. If Texas was its ultimate destination, the cargo is confiscable as *contraband of war* independently of any question as to the blockade of Brownsville.

That the "confederate uniform woollen cloth" (blue and mixed blue, Rec., p. 40,) was destined and exclusively fitted, perhaps, for the military use of the enemy must be conceded. Many of the other articles, such as the stockings, the boots, the blankets, and the brandy, were *ancepitis usûs*, but as they undoubtedly had the same destination as the military cloth, they are equally noxious. The *truss*, which seems to have been part of the cargo, would indicate that it is in the highest degree probable that the 2,500 cases of Cognac *brandy* were hospital supplies for the enemy.

THIRD.—The fact that the owners of this valuable cargo have filed no claim, and have not appeared save by the master, is a circumstance which will strengthen the conviction, that there is an enemy ownership behind the transaction.

Bennett & Wake were, unquestionably, directly or indirectly, the agents of the rebel authorities for the shipment of property intended for their use from England. The court will take notice of what appears in the case of the *Peterhoff*, in regard to these men, and consider it in connection with the present cause. (1 Rob., 127; Ibid, 158; 3 Rob., 122; 8 Wh., 261.)

FOURTH.—The misconduct of the master in denying the presence of any contraband in the cargo, in giving no account of its ownership, and in suppressing the place of its intended destination, shows that he was desirous of promoting the unlawful designs of the shippers of the cargo; and this is sufficient to affect the *vessel* with the guilt of the cargo.

FIFTH.—The persons who shipped this cargo might have dissipated somewhat the cloud which the contents of the record throws over the case, by producing the instructions given to the consignees in reference to the property; but that they have not done. There is of course but one explanation of

this. We have before remarked that the "*letter to consignee*," (Rec., p. 19,) is merely the shadow—not the substance—of any proper letter of that description.

HENRY STANBERY,
J. HUBLEY ASHTON,
For United States.
C. EAMES,
For Captors.

O